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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket ID OCC–2015–0017]

RIN 1557–AD96

OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Technical Amendments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule and guidelines.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is adopting enforceable guidelines establishing standards for recovery planning by insured national banks, insured Federal savings associations, and insured Federal branches of foreign banks with average total consolidated assets of $50 billion or more (Final Guidelines). The OCC is issuing the Final Guidelines as an appendix to its safety and soundness standards regulations, and the Final Guidelines will be enforceable by the terms of the Federal statute that authorizes the OCC to prescribe operational and managerial standards for national banks and Federal savings associations. The OCC is also adopting technical changes to the safety and soundness standards regulations that are made necessary by the addition of the Final Guidelines.

DATES: This final rule and guidelines are effective on January 1, 2017. The compliance dates for the Final Guidelines in Appendix E to part 30 vary, as specified below.

FOR FURTHER INFORMATION CONTACT: Lori Bittner, Large Bank Supervision—Resolution and Recovery, (202) 649–6093; Stuart Feldstein, Director, Andra Shuster, Senior Counsel, Karen McSweeney, Counsel, or Priscilla Benner, Attorney, Legislative & Regulatory Activities Division, (202) 649–5490; or Valerie Song, Assistant Director, Bank Activities and Structure Division, (202) 649–5500; or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The financial crisis demonstrated the destabilizing effect that severe stress at large, complex, interconnected financial companies can have on the national economy, capital markets, and the overall financial stability of the banking system. Following the crisis, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); [1] among other purposes, the Dodd-Frank Act was intended to strengthen the framework for the supervision and regulation of large U.S. financial companies in order to address the significant impact that these institutions can have on capital markets and the economy.

One lesson learned from the crisis is the importance—especially in large, complex financial institutions—of a strong risk governance framework. In 2014, the OCC formally adopted heightened standards guidelines that address the risk governance of large, complex banks (Heightened Standards).[2] The Heightened Standards establish minimum standards for the design and implementation of a risk governance framework and for a bank's board of directors (board) in overseeing the framework's design and implementation. The OCC believes that these Heightened Standards further the goals of the Dodd-Frank Act by clarifying the OCC's expectation that its regulated institutions have robust practices in areas where the crisis revealed substantial weaknesses.

Further, in the aftermath of the crisis, it became clear that many financial institutions had insufficient plans for identifying and responding rapidly to significant stress events that affected their financial condition and threatened their viability. As a result, many institutions were forced to take significant actions quickly without the benefit of a well-developed plan. In addition, recent large-scale events, such as destructive cyber attacks, demonstrate the need for institutions to plan how to respond to the financial effects of such occurrences. Therefore, the OCC believes that a large, complex institution should undertake recovery planning to be able to respond quickly to and recover from the financial effects of severe stress on the institution.[3] An institution's recovery planning should be a dynamic, ongoing process that complements its risk governance functions and supports its safe and sound operation. The process of developing and maintaining a recovery plan also should cause a covered bank's management and its board to enhance their focus on risk governance with a view toward lessening the negative impact of future events.

In December 2015, the OCC invited public comment on proposed guidelines establishing minimum standards for recovery planning by insured national banks, insured Federal savings associations, and insured Federal branches of foreign banks (together, banks and each, a bank) with average total consolidated assets of $50 billion or more (together, covered banks and each, a covered bank).[4] After carefully considering the comments we received on the proposed guidelines, the OCC is adopting these Final Guidelines as a new Appendix E to part 30 of our regulations. The OCC, as the primary financial regulatory agency for the covered banks, believes that the Final Guidelines will assist these banks with their recovery planning efforts, thereby minimizing the negative impact of severe stress. We have set forth below a detailed description of the proposal, the significant comments we received, and the standards contained in the Final Guidelines.

Summary of Comments on the Notice of Proposed Rulemaking

The OCC received six comment letters on the proposed guidelines from national banks, trade associations, and individuals. To improve our understanding of the issues raised by commenters, the OCC had a meeting with two trade groups and a number of their member institutions, and a summary of this meeting is available on a public Web site.[5]

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[1] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[2] 79 FR 54518 (Sept. 11, 2014) (OCC Guidelines Establishing Heightened Standards for Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches; Integration of Regulations).

[3] While the Dodd-Frank Act addresses resolution planning, it does not specifically address recovery planning.

[4] 80 FR 78681 (Dec. 17, 2015).

The comments we received generally supported the proposed guidelines, acknowledging that recovery planning is an important part of risk management and that the use of guidelines, rather than regulations, provides both covered banks and the OCC with appropriate flexibility. However, the commenters asked the OCC to clarify various provisions in the proposal. For example, commenters requested that the OCC address the ability of a covered bank to leverage other processes in developing its recovery plan and to tailor its plan based on the size, risk profile, and complexity of the bank. They also asked the OCC to clarify the role of the board with respect to the plan. In addition, commenters suggested that the OCC consider tiered compliance dates. As discussed more fully below, the OCC has revised the Final Guidelines in response to the comments we received and has made other technical and clarifying changes.

Enforcement of the Final Guidelines

The OCC is adopting these Final Guidelines pursuant to section 39 of the Federal Deposit Insurance Act (FDIA).[6] Section 39 authorizes the OCC to prescribe safety and soundness standards in the form of a regulation or guidelines. The OCC currently has four sets of these guidelines that are appendices to part 30 of the OCC's regulations. Appendix A contains operational and managerial standards that relate to internal controls, information systems, internal audit systems, loan documentation, credit underwriting, interest rate exposure, asset growth, asset quality, earnings, compensation, fees, and benefits. Appendix B contains standards on information security, and Appendix C contains standards that address residential mortgage lending practices. Appendix D contains the Heightened Standards discussed above.

Section 39 prescribes different consequences depending on whether an agency issues the standards by regulation or guideline. Pursuant to section 39, if a bank[7] fails to meet a standard prescribed by regulation, the OCC must require it to submit a plan specifying the steps it will take to comply with the standard. If a bank fails to meet a standard prescribed by guidelines, the OCC has the discretion to decide whether to require the submission of a plan.[8] The issuance of these standards as guidelines, rather than as regulations, provides the OCC with the flexibility to pursue the course of action that is most appropriate given the specific circumstances of a covered bank's noncompliance with one or more standards and the covered bank's self-corrective and remedial responses.

The procedural rules implementing the supervisory and enforcement remedies prescribed by section 39 are contained in part 30 of the OCC's rules. Under these provisions, the OCC may initiate a supervisory or enforcement process when it determines, by examination or otherwise, that a bank has failed to meet the standards set forth in the Final Guidelines.[9] Upon making that determination, the OCC may request in writing that the bank submit a compliance plan to the OCC detailing the steps the institution will take to correct the deficiencies and the time within which it will take those steps. This request is termed a Notice of Deficiency. Upon receiving a Notice of Deficiency from the OCC, the bank must submit a compliance plan to the OCC for approval within 30 days.

If a bank fails to submit an acceptable compliance plan or fails in any material respect to implement a compliance plan approved by the OCC, the OCC shall issue a Notice of Intent to Issue an Order pursuant to section 39 (Notice of Intent). The bank then has 14 days to respond to the Notice of Intent. After considering the bank's response, the OCC may issue the order, decide not to issue the order, or seek additional information from the bank before making a final decision. Alternatively, the OCC may issue an order without providing the bank with a Notice of Intent. In such a case, the bank may appeal after-the-fact to the OCC, and the OCC has 60 days to consider the appeal. Upon the issuance of an order, a bank is deemed to be in noncompliance with part 30. Orders are formal, public documents, and the OCC may enforce them in Federal district court. The OCC may also assess a civil money penalty, pursuant to 12 U.S.C. 1818, against any bank that violates or otherwise fails to comply with any final order and against any institution-affiliated party who participates in such violation or noncompliance.

Detailed Description of the Proposed Guidelines, Comments Received, and Final Guidelines

Like the proposal, the Final Guidelines consist of three sections. Section I explains the scope of the Final Guidelines, sets forth the applicable compliance dates, and defines key terms. Section II sets forth the standards for the design and execution of a covered bank's recovery plan. Section III describes the responsibilities of a covered bank's management and board in connection with the bank's recovery plan.

Section I: Introduction

Scope. As proposed, the guidelines would have applied to any bank with "average total consolidated assets" equal to or greater than $50 billion as of the effective date of the guidelines (calculated by averaging a bank's total consolidated assets, as reported on the bank's Consolidated Reports of Condition and Income (Call Reports), for the four most recent consecutive quarters). The preamble to the proposal noted that this threshold is consistent with the scope of Federal Deposit Insurance Corporation (FDIC) and Board of Governors of the Federal Reserve System (Board) regulations that require certain entities to prepare resolution plans.[10] We note that this threshold also is consistent with the Heightened Standards threshold, as well as the threshold used in section 165 of the Dodd-Frank Act for the application of enhanced prudential standards to bank holding companies and foreign banking organizations.

The proposal provided that for any bank with average total consolidated assets less than $50 billion as of the effective date of the guidelines, whose average total consolidated assets subsequently reached $50 billion or greater, the guidelines would apply on the as-of date of the bank's most recent Call Report used in the calculation of the average total consolidated assets. Once a bank's average total consolidated assets had reached or exceeded the $50 billion threshold, the preamble explained that the bank would have had to comply with the guidelines, unless and until the OCC specifically determined that compliance was not required, even if the bank's average total consolidated assets subsequently fell below the $50 billion threshold.

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[5] *See http://www.regulations.gov/index.jsp#!documentDetail;D=OCC-2015-0017-0001.*

[6] 12 U.S.C. 1831p–1.

[7] Section 39 of the FDIA applies to "insured depository institutions," which, as defined in 12 U.S.C. 1813, includes insured Federal branches of foreign banks. While we do not specifically refer to these entities in this discussion of the enforcement of the Final Guidelines, it should be read to include them.

[8] *See* 12 U.S.C. 1831p–1(e)(1)(A)(i) and (ii).

[9] The procedures governing the determination and notification of failure to satisfy a standard prescribed pursuant to section 39; the filing and review of compliance plans; and the issuance of orders, if necessary, are set forth in the OCC's regulations at 12 CFR 30.3, 30.4, and 30.5.

[10] *See* 12 CFR 381.2(f) and 243.2(f), respectively. *See also* 12 CFR 360.10.

The OCC received no comments on these provisions and adopts them as proposed.

Compliance date. Although the OCC did not propose a specific compliance date, several commenters requested a phased-in compliance period. Some commenters suggested a compliance date of 2017 for the largest, most complex covered banks and a subsequent compliance date of 2018 for the remaining covered banks. These commenters stated that the phase-in dates should account for the size, risk profile, and complexity of a covered bank. Other commenters requested an initial compliance date for all covered banks of no earlier than 2018. Another commenter suggested that the OCC use a flexible approach when setting a compliance date for banks that reach or exceed the $50 billion threshold after the effective date of the Final Guidelines.

The OCC agrees that a phased-in compliance period is appropriate and adopts the compliance schedule set forth below, which we believe gives covered banks, including those likely to have the least experience with recovery planning, sufficient time to prepare their plans. Under this schedule, a covered bank with average total consolidated assets equal to or greater than $750 billion on the effective date of these Final Guidelines should comply within 6 months of the effective date. A covered bank with average total consolidated assets equal to or greater than $100 billion but less than $750 billion on the effective date should comply within 12 months of the effective date. A covered bank with average total consolidated assets equal to or greater than $50 billion but less than $100 billion on the effective date should comply within 18 months of the effective date. Finally, a bank with less than $50 billion in average total consolidated assets on the effective date, which subsequently becomes a covered bank, should comply with the Final Guidelines within 18 months of becoming a covered bank.

Reservation of authority. In order to preserve supervisory flexibility, the proposed guidelines reserved the OCC's authority to apply the guidelines to a bank with average total consolidated assets of less than $50 billion if the agency determined that the bank's operations were highly complex or otherwise presented a heightened risk. The preamble explained that the OCC expected to use this authority infrequently and did not intend to apply the guidelines to community banks. The proposed guidelines also reserved the OCC's authority to determine that compliance with the guidelines was no longer required for a covered bank whose operations no longer were highly complex or otherwise no longer presented a heightened risk.

In either case, when determining whether a bank's or covered bank's operations were highly complex or otherwise presented a heightened risk, the proposed guidelines stated that the OCC would consider an institution's size, risk profile, activities, and complexity, including the complexity of its organizational and legal entity structure. The guidelines also stated that, when exercising the authority reserved by this provision, the OCC would apply notice and response procedures consistent with those set out in 12 CFR 3.404.[11]

Commenters had no substantive comments on this subsection. However, we have added "scope of operations" to the factors that we will consider in determining whether a bank's or covered bank's operations are highly complex or otherwise present a heightened risk. Otherwise, the OCC is adopting these provisions as proposed and reiterates that we expect to use this authority infrequently and do not intend to apply the Final Guidelines to community banks.

Preservation of existing authority. The proposed guidelines stated that neither section 39 of the FDIA nor the OCC's part 30 rules in any way limited the authority of the OCC to address unsafe or unsound practices or conditions or other violations of law.[12] We received no comments on this provision, and we are adopting it as proposed.

Definitions. The proposed guidelines included definitions of "average total consolidated assets," "bank," "covered bank," "recovery," "recovery plan," and "trigger." The proposal defined the term "recovery" to mean timely and appropriate action that a covered bank takes to remain a going concern when it is experiencing or is likely to experience considerable financial or operational distress and provided that a covered bank in recovery had not yet deteriorated to the point where liquidation or resolution is imminent. The proposal defined "recovery plan" as a plan that identified triggers and options for a covered bank to respond to a wide range of severe internal and external stress scenarios and to restore a covered bank that is in recovery to financial and operational strength and viability in a timely manner while maintaining the confidence of market participants. This definition further stated that neither the plan nor the options could assume or rely on any extraordinary government support.

The proposal defined "trigger" as a "quantitative or qualitative indicator of the risk or existence of severe stress that should always be escalated to management or the board, as appropriate, for purposes of initiating a response." It stated that the breach of any trigger should result in timely notice, accompanied by sufficient information, to enable management of the covered bank to take corrective action.

The OCC received one comment regarding references to the "operational" effects of severe stress in the proposal. The commenter stated that a covered bank's recovery plan should address the effects of *operational* stress events (*e.g.*, cyber events, natural disasters, unanticipated changes in senior management) only to the extent that such stress events affect the bank's *financial* strength and viability. The commenter noted that a covered bank addresses the *operational* effects of stress events in its other risk management plans (*e.g.*, disaster recovery, business continuity). The commenter also stated that the Final Guidelines would be inconsistent with Board, Financial Stability Board, and European Banking Authority recovery planning provisions if they stated that a covered bank's recovery plan should address the operational effects of severe stress. The OCC agrees—a recovery plan should address the *financial*, not the *operational*, effects of severe stress.

The proposal defined the term "recovery plan" to include restoring a covered bank's "financial and operational strength and viability." The same commenter noted that the purpose of a recovery plan is to help a covered bank restore its *financial*, not its *operational*, strength and viability. The commenter stated that covered banks address the restoration of operational strength and viability in other risk management plans (*e.g.*, disaster recovery, business continuity). The OCC agrees and has revised the definition of "recovery plan" by removing "and operational" to clarify that the purpose of a recovery plan is to help a covered bank restore its financial strength and viability. While a recovery plan might address operational stress scenarios and identify recovery options that are operational in nature, the triggers in the recovery plan should alert the bank to the possible or actual financial effects of stress, and the recovery options should be designed to restore the bank's financial strength and viability. We made conforming changes throughout the document to reflect this change.

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[11] As explained in the proposal, these procedures require the OCC to provide a bank or covered bank, as appropriate, with written notice of its determination to use its reservation of authority, and the bank or covered bank would have 30 days to respond in writing. The proposal provided that the OCC would consider the failure of a bank or covered bank to respond within this 30-day period to be a waiver of any objections. At the conclusion of the 30 days, the proposed guidelines stated that the OCC would issue a written notice of its final determination.

[12] Section 39 preserves all authority otherwise available to the OCC, stating "The authority granted by this section is in addition to any other authority of the Federal banking agencies." *See* 12 U.S.C. 1831p–1(g).

The proposal prohibited reliance on extraordinary government support in a recovery plan. The OCC received a comment asking it to clarify how this prohibition would apply when a foreign government controls a covered bank. While we have not changed the prohibition set forth in the definition of "recovery plan," the OCC acknowledges that exceptions to this prohibition may exist with respect to support of a covered bank by a foreign government. We recommend that an affected covered bank discuss this situation with its OCC examiner.

The OCC received no other comments on these definitions. We have clarified, however, several terms defined in the Final Guidelines. First, we revised the definition of "covered bank" to reflect the proposal's preamble statement that "covered bank" includes a bank with average total consolidated assets of less than $50 billion if it was previously a covered bank, unless the OCC determines otherwise. Second, we changed the word "distress" in the definition of "recovery" to "stress." While the term "distress" can be used to describe either stress itself or the effect of stress, we intended in this context to refer to stress *itself.* Third, we revised the definition of "trigger" to clarify that the *breach* of a trigger, not the trigger itself, should be escalated and that the escalation should be to *senior* management. Finally, we have clarified that a trigger breach can be escalated to either the board or an appropriate committee of the board,[13] and we have made conforming changes throughout the document where necessary to address the role of an appropriate committee of the board. Except as otherwise noted above, we are adopting these definitions as proposed.

Section II: Recovery Plan

A. *Recovery plan.* Subsection A of the proposal stated that each covered bank should develop and maintain a recovery plan appropriate for its individual size, risk profile, activities, and complexity, including the complexity of its organizational and legal entity structure. In response to this statement, commenters requested that the OCC clarify its expectations with regard to the length and detail of recovery plans and asked that the Final Guidelines elaborate on a covered bank's ability to tailor its recovery plan to its particular operations.

We note that a covered bank's recovery plan need only be as long and as detailed as is necessary to satisfy these Final Guidelines. The OCC does not have any expectations regarding a plan's length or detail, nor does it expect that recovery plans will mirror the length or detail of resolution plans. Further, the OCC agrees that a covered bank may tailor its recovery plan to its unique size, risk profile, activities, and complexity. Therefore, a smaller, less complex bank may have a shorter, less complex recovery plan. The stress scenarios, triggers, and recovery options appropriate for a covered bank that engages primarily in retail and commercial banking are likely to be different from those for a covered bank that engages in significant trading or capital market activities. Those appropriate for a covered bank that engages primarily in domestic activities are likely to be different from those for a covered bank with extensive foreign activities. For the sake of clarity, we have added language to this description stating that a recovery plan should be specific to the unique characteristics of each covered bank. We have otherwise adopted this subsection as proposed.

B. *Elements of recovery plan.* Subsection B set forth the eight elements of a recovery plan.

1. *Overview of covered bank.* The proposed guidelines stated that a recovery plan should include a detailed description of the covered bank's overall organizational and legal structure, including its material entities, critical operations, core business lines, and core management information systems. The proposal stated that this description should explain interconnections and interdependencies: (i) Across business lines within the covered bank; (ii) with affiliates in a bank holding company structure; (iii) between a covered bank and its foreign subsidiaries; and (iv) with critical third parties. As explained in the proposal's preamble, the OCC used the terms "interconnections" and "interdependencies" in a manner consistent with FDIC and Board resolution plan regulations. The preamble cited the following as examples of interconnections and interdependencies: (i) Relationships with respect to credit exposures, investments, or funding commitments; (ii) guarantees including an acceptance, endorsement, or letter of credit issued for the benefit of an affiliate during normal periods, as opposed to during a crisis; and (iii) payment services, treasury operations, collateral management, information technology (IT), human resources (HR), and other operational functions. It explained that the plan should address whether a disruption of these interconnections or interdependencies would materially affect the covered bank and, if so, how.

Commenters asked the OCC to confirm in the Final Guidelines that other terms, including "material entities," "critical operations," and "core business lines," may be interpreted consistent with the use of those terms elsewhere, such as resolution planning regulations and Heightened Standards. The OCC confirms that a covered bank may include in its recovery plan concepts and terms used elsewhere, provided the bank's resulting recovery plan is consistent with the Final Guidelines. In order to facilitate the OCC's understanding of a covered bank's recovery planning process, a bank's recovery plan should indicate which key terms are drawn from other sources and identify the sources. Otherwise, we adopt this element as proposed.

2. *Triggers.* The proposal stated that a recovery plan should identify triggers that appropriately reflected a covered bank's particular vulnerabilities. As explained in the preamble, in order for a covered bank to identify such triggers, the bank should design severe stress scenarios that would threaten its critical operations or cause it to fail if the bank did not implement one or more recovery options in a timely manner. The preamble further explained that these scenarios should range from those that cause significant hardship to those that bring the covered bank close to default, but not into resolution.

As explained in the proposal, in designing stress scenarios, a covered bank should consider a range of bank-specific and market-wide scenarios, individually and in the aggregate, that are immediate and prolonged. The proposal explained that a covered bank should design the stress scenarios to result in capital shortfalls, liquidity pressures, or other significant financial losses. The preamble included as examples of bank-specific stress scenarios: Fraud; a portfolio shock; a significant cyber attack[14] or other wide-scale operational event; an accounting and tax issue; an event that caused a reputational crisis and degraded customer or market confidence; and other key stresses that management identified. Although not mentioned in the proposal, another example of a covered bank-specific stress scenario is the failure of the bank's parent company or a significant affiliate.

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[13] We received a comment requesting that the OCC be flexible in applying provisions of the Final Guidelines referencing the board or an appropriate committee of the board to Federal branches, which do not have boards of directors. In applying the Final Guidelines to insured Federal branches that are covered banks, OCC examiners will consult with the branch to determine the appropriate person or committee to undertake the responsibilities assigned to the board of directors or an appropriate committee of the board under the Final Guidelines.

Examples of market-wide stress scenarios included: A disruption of domestic or global financial markets; a failure or impairment of systemically important financial industry participants, critical financial market infrastructure firms, and critical third-party relationships; significant changes in debt or equity valuations, currency rates, or interest rates; the widespread interruption of critical infrastructure that significantly degraded operational capability;[15] and other unfavorable economic conditions. It should also be noted that stress scenarios are important tools that a covered bank uses to determine areas of vulnerability and to help it identify the appropriate triggers. While they need not be included in the plan itself, they are a critical part of the planning process and should be documented for OCC examiners to consider and discuss with a covered bank as part of the agency's overall evaluation of a bank's plan.

With respect to the development of stress scenarios, commenters requested that the Final Guidelines not require a covered bank to develop stress scenarios other than those required for supervisory stress tests (*i.e.,* Comprehensive Capital Analysis and Review (CCAR) and Dodd-Frank Act Stress Testing (DFAST)). We recognize that the scenarios used to conduct supervisory stress tests may be appropriate for purposes of identifying triggers under these Final Guidelines. However, a covered bank should evaluate those scenarios in the context of these Final Guidelines and consider whether different or additional scenarios are appropriate, including whether these specific scenarios are sufficiently severe to cause the bank to be in recovery—*i.e.,* scenarios that bring the bank to the brink of resolution.

The proposal's discussion of the triggers that a covered bank should include in its recovery plan explained that these triggers should address a continuum of increasingly severe stress, ranging from triggers that provide a warning of the likely occurrence of severe stress to those that indicate the actual existence of severe stress. It stated that the number and nature of triggers should be appropriate for the covered bank's size, risk profile, activities, and complexity. As the proposal further explained, the nature of a trigger should inform the nature of the response. For example, the preamble stated that, in some situations, the appropriate response to the breach of a trigger should be enhanced monitoring; in other situations, the breach of a trigger should result in activating a more specific recovery option set forth in the plan or taking other corrective action. As the proposal noted, however, the breach of a particular trigger does not necessarily correspond to a single recovery option; instead, more than one option may be appropriate when a particular trigger is breached.

The preamble to the proposal stated that quantitative triggers included changes in covered bank-specific indicators that reflect the covered bank's capital or liquidity position. The proposal stated that a covered bank should also consider quantitative triggers other than capital or liquidity that may have an impact on its condition, such as a rating downgrade; access to credit and borrowing lines; equity ratios; profitability; asset quality; or other macroeconomic indicators. It also noted that a covered bank should be prepared to act if it is at risk, regardless of whether a trigger has been breached or the recovery plan includes options that specifically addressed the problems the bank faced.

The proposal also stated that qualitative triggers would include the unexpected departure of senior leadership; the erosion of reputation or market standing; the impact of an adverse legal ruling; and a material operational event that affects the covered bank's ability to access critical services or to deliver products or services to its customers for a material period of time. In retrospect, we believe these scenarios more accurately *describe stress events* that may affect a covered bank's financial strength and viability than *triggers that indicate* the stress. However, while we anticipate that most triggers will be quantitative indicators, we have retained the reference to qualitative indicators that have a financial effect on a bank to allow for those that a bank may identify.

The proposal noted that a covered bank should review and update its triggers, as necessary, to take into account changes in laws and regulations and other material events. In addition, it stated that a covered bank should consider any regulatory or legal consequences resulting from the breach of a particular trigger. We made no changes to this element and adopt it as proposed.

3. *Options for recovery.* The proposed guidelines stated that a recovery plan should identify a wide range of credible options that a covered bank could undertake to restore its financial and operational strength and viability, thereby allowing the bank to continue to operate as a going concern and avoid liquidation or resolution. The proposed guidelines further provided that a recovery plan should explain how the covered bank would carry out each recovery option, describe the timing for each option, and identify options that require regulatory or legal approval.

The preamble to the proposal explained that the recovery plan should include a description of the decision-making process for implementing each option, outline the steps the bank will follow, identify the critical parties to carry out each option, and address timing considerations. It also stated that a recovery plan should identify obstacles to executing an option and set out mitigation strategies to address these obstacles. Finally, the preamble provided that the plan should identify those options that would require regulatory or legal approval and, consistent with the proposal's definition of "recovery plan," that neither the plan nor the options may assume or rely on any extraordinary government support.[16]

The preamble noted that a covered bank should be able to execute plan options within time frames that would allow the options to be effective during periods of stress. It also provided examples of recovery options, including the conservation or restoration of liquidity and capital; the sale, transfer, or disposal of significant assets, portfolios, or business lines; steps that reduce the covered bank's risk profile;

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[14] As explained in the proposal, a significant cyber attack includes an event that has an impact on a covered bank's computer network(s) or the computer network(s) of one of its third-party service providers and that significantly undermines the covered bank's data or processes.

[15] As explained in the proposal, an example of this type of interruption includes a disruption to a payment, clearing, or settlement system that significantly affects the covered bank's ability to access that system.

[16] The role of extraordinary governmental support in the recovery plans of covered banks that are controlled by a foreign government is discussed above.

the restructuring of liabilities; the activation of emergency protocols; organizational restructuring, including divesting legal entities in order to simplify the covered bank's structure; and implementing succession planning. To facilitate an understanding of how the stress scenarios, triggers, and options relate to each other, the proposal included the following chart:

Examples of severe stress scenarios	Possible triggers	Possible options in response to triggers
Idiosyncratic stress: Trading losses caused by a rogue trader. *Systemic stress:* Significant decline in U.S. gross domestic product, coupled with an increase in the U.S. unemployment rate and a deterioration in U.S. residential housing market.	• Tier 1 capital falls below 6%. • Liquidity falls below internal bank policy requirements. • Short-term credit rating falls below A–3. • Nonperforming loans rise above a specified percentage. • Market capitalization falls below a specific limit for a certain period of time.	• Issue new capital. • Sell nonstrategic assets or businesses. • Reduce loan originations or commitments. • Sell strategic assets or businesses. • Reduce expenses (*e.g.,* business contractions). • Access the Board's Discount Window.

As discussed above, the OCC has clarified that the recovery options detailed in a recovery plan are those that respond to the financial effects of severe stress. To effect this clarification in this element of the plan, we have removed "and operational" from the description of the options for recovery in the Final Guidelines. We otherwise adopt this element as proposed. The OCC also notes that a covered bank should not view the options in its plan as exclusive or a specific trigger as necessitating the execution of a particular option. Rather, a covered bank should use its judgment to determine the most appropriate options for the bank to take during a period of severe stress.

4. *Impact assessments.* The proposed guidelines provided that, for each recovery option, a covered bank should assess and describe how the option would affect the covered bank. The guidelines stated that this impact assessment and description should specify the procedures the covered bank would use to maintain the financial and operational strength and viability of its material entities, critical operations, and core business lines for each recovery option. For each option, the recovery plan's impact assessment should address: (i) The effect on the covered bank's capital, liquidity, funding, and profitability; (ii) the effect on its material entities, critical operations, and core business lines, including reputational impact; and (iii) any legal or market impediment or regulatory requirement that the bank would need to address or satisfy to implement the option.[17]

As the preamble explained, the assessment should analyze the effect each option would have on the covered bank, including its internal operations (*e.g.,* IT systems, suppliers, HR operations) and its access to market infrastructure (*e.g.,* clearing and settlement facilities, payment systems, additional collateral requirements). The OCC received no comments on this provision. Consistent with the discussion above, however, we have removed "and operational." Otherwise, we make no material changes to this element as proposed.

5. *Escalation procedures.* The proposed guidelines stated that a recovery plan should clearly outline the process for escalating decision-making to senior management or the board, as appropriate, in response to the breach of a trigger. The proposal also stated that the plan should identify the departments and persons responsible for making and executing these decisions and describe the process for informing stakeholders (*e.g.,* shareholders, counsel, accountants, regulators) when necessary. As the preamble explained, at a minimum, the escalation procedures should result in the covered bank taking action before remedial supervisory action is necessary.

The OCC received no substantive comments on this element of the plan. However, we have clarified that the breach of *any* trigger should be escalated, which is consistent with the definition of "trigger." In addition, we have clarified that the recovery plan should identify the departments and persons responsible for *executing* the decisions of senior management or the board (or an appropriate committee of the board). Otherwise, we have adopted this element as proposed.

6. *Management reports.* The proposed guidelines stated that a recovery plan should require reports that provide management or the board with sufficient data and information to make timely decisions regarding the appropriate actions necessary to respond to the breach of a trigger. As explained in the preamble, the reports to management or the board should allow them to monitor the covered bank's progress in response to the actions taken under the recovery plan. The OCC received no comments on this element of the plan. As a clarification, however, the OCC has amended the Final Guidelines to state that reports should be made to *senior* management. Otherwise, we adopt the language as proposed.

7. *Communication procedures.* As provided in the proposed guidelines, a recovery plan should provide that the covered bank notify the OCC of any significant breach of a trigger and any action taken or to be taken in response to such breach and explain the process for deciding when a breach of a trigger is significant. The preamble noted that a covered bank should work closely with the OCC when executing its recovery plan.

The proposal also stated that a recovery plan should address when and how the covered bank will notify persons within the organization and other external parties of its actions under the recovery plan. This notice is to ensure that all stakeholders are informed in a timely manner of how the covered bank has responded or is responding to a breach of a trigger. In addition, the proposed guidelines stated that the recovery plan should identify how the covered bank would obtain required regulatory or legal approvals, in order to ensure that the bank receives such approval(s) in a timely manner. The OCC received no comments on this element of a recovery plan, and we adopt it as proposed.

8. *Other information.* As set forth in the proposed guidelines, a recovery plan should include any other information that the OCC communicates in writing directly to the covered bank regarding the bank's recovery plan. The preamble also stated that a well-developed recovery plan should consider relevant information included in other written

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[17] Although not mentioned in the proposal, we note that a covered bank's assessment of the legal or market impediments or regulatory requirements relevant to its recovery options should address any timing issues presented by these impediments or requirements.

OCC or Federal Financial Institutions Examination Council material. The OCC received no comments on this element of a recovery plan, and we adopt it as proposed.

C. *Relationship to other processes; coordination with other plans.* The proposed guidelines stated that a covered bank should integrate its recovery plan into its corporate governance and risk management functions and coordinate its recovery planning with its strategic; operational (including business continuity); contingency; capital (including stress testing); liquidity; and resolution planning. As the OCC explained in the preamble, in many cases, these plans may be interconnected and require the covered bank to coordinate among them.

The proposed guidelines also stated that, to the extent possible, a covered bank should align its recovery plan with any recovery and resolution planning efforts by the covered bank's holding company, so that the plans are consistent with and do not contradict each other. As the OCC stated in the preamble, some inconsistencies may be unavoidable because recovery planning and resolution planning differ: Recovery planning addresses a bank as a going concern; resolution planning starts from the point of an entity's non-viability. In addition, the preamble noted that covered banks are an integral part of bank holding company recovery and resolution plans; as a result, it stated that a covered bank might be able to leverage certain elements in these other plans. As an example, the proposal referenced resolution plans, which typically require a bank to map its critical operations. It noted that this mapping exercise might be useful to the bank's recovery plan description of interconnections and interdependencies.

The OCC received several comments on this element of the plan requesting the OCC to confirm that covered banks are permitted to leverage existing processes, such as those for stress testing, resolution planning, contingency planning, risk governance, and holding company recovery plans, when developing recovery plans. One commenter requested that the Final Guidelines permit a covered bank to use its holding company's recovery plan to satisfy its obligations under the Final Guidelines, if the risk profiles of both entities are substantially the same. Another commenter asserted that a covered bank should be permitted to leverage its existing governance structure to satisfy its management and board responsibilities under these Final Guidelines.

As explained in the preamble to the proposal, the OCC recognizes that many covered banks already engage in significant planning, including planning responses to cyber attacks, business interruptions, and leadership vacancies. Some banks also undertake a range of other planning, including strategic, contingency, capital (including stress testing), liquidity, and resolution. The same is true for their parent holding companies or affiliates. As also noted in the proposal, we do not intend for the recovery planning described in these Final Guidelines to be needlessly burdensome or duplicative of these other planning processes. The OCC expects, however, that a covered bank's recovery plan will identify the recovery strategies that are *specific to that bank* and, as appropriate, distinguishable from the recovery strategies of its holding company or affiliates. Furthermore, while we encourage covered banks to leverage their existing processes, including by incorporating or cross-referencing portions or elements of relevant plans, in most cases, it is unlikely that a covered bank will be able to use a plan prepared for another purpose or entity to satisfy the Final Guidelines.[18] As we have noted previously, the purpose of these Final Guidelines is to provide a comprehensive framework for evaluating how severe stress would financially affect a covered bank specifically and the recovery options that would allow *that bank* to remain viable under such stress.

The OCC is making several changes to this provision as proposed. First, we have revised this subsection so that the Final Guidelines themselves state that a covered bank's recovery plan should be specific to the unique characteristics of that bank. Second, we are clarifying that the other plans identified in the proposed guidelines with which a covered bank should coordinate its recovery planning is not an exclusive list. Instead, these are *examples* of other types of plans. Third, we are replacing the phrase "risk management and corporate governance" with "risk governance," which we believe incorporates the concepts of both risk management and corporate governance as it relates to risk management. Other than these and other minor changes, we adopt this provision as proposed.

Section III: Management's and the Board's Responsibilities

Section III of the proposed guidelines addressed the responsibilities of a covered bank's management and board with respect to the recovery plan and stated that these responsibilities should be included in the bank's recovery plan.

The proposed guidelines provided that management should review its bank's recovery plan at least annually and in response to a material event. It further stated that management should revise the plan as necessary to reflect material changes in the covered bank's size, risk profile, activities, and complexity, as well as changes in external threats. The preamble explained that during this review, management should consider the ongoing relevance and applicability of the stress scenarios used to identify the plan's triggers and revise the recovery plan as needed.

The proposed guidelines also stated that management's review should include evaluating the covered bank's organizational structure and its effectiveness in facilitating recovery. The preamble explained that this review should include its legal structure, number of entities, geographical footprint, booking practices (*e.g.*, guarantees, exposures), and servicing arrangements. The preamble stated that both management and the board should provide justification for the covered bank's organizational and legal structures and outline changes that would enhance their ability to oversee the covered bank in times of stress. As explained in the preamble, a more rational legal structure can provide a clearer path to recovery and the operational flexibility necessary to implement a recovery plan.

Several commenters requested that the OCC recognize the need for a covered bank to have flexibility regarding the timing of management's annual review of its recovery plan. These commenters explained that this flexibility would facilitate a covered bank's ability to meet deadlines associated with other requirements, such as stress testing. The OCC agrees that management should have flexibility to conduct its annual reviews on its preferred schedule. As noted in the proposal, OCC examiners will assess the appropriateness and adequacy of the covered bank's ongoing recovery planning process as part of the agency's regular supervisory activities, which we believe will provide covered banks with the flexibility they need.

Commenters also requested the OCC to clarify that it is not necessary for management to recommend changes to a covered bank's organizational and legal entity structure as part of every annual review of the bank's recovery plan. The OCC agrees that a covered bank's management should only recommend changes to a bank's organizational and legal entity structure when such changes are necessary or appropriate.

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[18] When a covered bank comprises a substantial percentage of its holding company's assets (*i.e.*, 95%), the holding company's recovery plan, if any, may serve as the bank's recovery plan, provided that such plan satisfies these Final Guidelines.

The proposed guidelines also stated that the board is responsible for overseeing the covered bank's recovery planning process. As part of this oversight, the preamble explained that the board should work closely with the bank's senior management in developing and executing the recovery plan. The proposed guidelines also stated that a covered bank's board, or an appropriate committee of the board, should review and approve the bank's recovery plan at least annually and as needed to address any changes made by management.

A number of commenters expressed concern that the preamble's use of "developing and executing" to describe a covered bank board's role with respect to a recovery plan is inconsistent with a board's traditional oversight role. It is not the OCC's intent to expand the board's role, and we note that the regulatory text in both the proposal and Final Guidelines describe the role of the board as "oversight."

Commenters also asked the OCC to clarify that a covered bank's board need only review and approve a bank's plan yearly, and as necessary to address *significant,* as opposed to *all,* changes to a plan. We have amended the Final Guidelines to reflect this and otherwise adopt this section as proposed.

Description of Technical Amendments to Part 30

We also are including with these Final Guidelines technical and conforming amendments to the part 30 regulations to add references to new Appendix E, which contains the Final Guidelines, where appropriate.

Regulatory Analysis

Paperwork Reduction Act

The OCC has determined that the Final Guidelines include collections of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with PRA, the OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The OCC submitted the information collections contained in the proposed guidelines to OMB for review and approval, pursuant to 44 U.S.C. 3506 and section 1320.11 of the OMB implementing regulations (5 CFR part 1320). OMB instructed the OCC to examine any public comments it received in response to the proposed PRA estimate and to describe in the supporting statement of its next collection any relevant comments, as well as the OCC's response to such comments. The OCC has re-submitted the information collections to OMB in connection with the final rule.

The collections of information that are subject to the PRA in these Final Guidelines are found in 12 CFR part 30, appendix E, sections II.B., II.C., and III. Section II.B. of this appendix specifies the elements of the recovery plan, including an overview of the covered bank; triggers; options for recovery; impact assessments; escalation procedures; management reports; and communication procedures. Section II.C. of this appendix addresses the relationship of the plan to other covered bank processes and coordination with other plans, including the processes and plans of its bank holding company. Section III of this appendix outlines management's and the board's responsibilities.

We received one comment on our proposed information collection from an individual, which addressed all four of the questions below. First, the commenter argued that a stress event that threatens the viability of a covered bank is the result of either an event that the bank could not have foreseen or failed prudential supervision by the OCC. In either case, the commenter argued, a recovery plan will be useless. In addition, this commenter argued that if a covered bank treats its recovery plan like a prescriptive playbook, the plan will fail and, alternatively, if a recovery plan only provides guidelines, the plan will have no practical utility.

In response, as noted above, the OCC believes that stress scenarios are important tools that a covered bank uses to determine areas of vulnerability and help it identify the appropriate triggers. The OCC understands that a covered bank's recovery planning process will not result in a plan that identifies every trigger and option for every possible scenario—but we do believe that the processes of recovery planning and codification of a plan will help a covered bank manage the stresses it encounters. With respect to the role of a recovery plan during a period of severe stress, as noted above, a covered bank should use its judgment to determine the most appropriate options for the bank to take to preserve its financial strength and viability.

The commenter also stated that the OCC's burden estimate was too low. The OCC believes that its original estimate was realistic given the requirements of the proposed guidelines and has included the same estimate in the Final Guidelines. We have adjusted, however, the estimate of respondents to reflect the most recent data available.

In addition, the commenter stated that the agency could enhance the quality and utility of the information collection by requiring *only* triggers and response options in its plans. In response, as noted above, the OCC believes that stress scenarios are important tools that a covered bank uses to determine areas of vulnerability and identify appropriate triggers. We include the overview of the covered bank as a plan element because a covered bank's organizational and legal entity structure is likely to change often; its inclusion will both ensure that the bank consider the entire organization in the development of its plan and assist the bank in understanding the recovery plan's relationship with its other planning efforts.

The commenter also stated that the proposed information collection is duplicative of and redundant to information that the OCC currently collects. In response, the OCC recognizes that some information necessary for recovery planning may have been compiled or provided to the OCC for other purposes. However, we believe that it is necessary for a covered bank to assemble this information in the context of recovery planning in order to develop an appropriate plan to respond to future stresses. We encourage, however, covered banks to leverage, including by cross-referencing if appropriate, this prior work. Finally, the commenter argued that it is burdensome to ask a covered bank to connect its recovery plan with its other plans. In response, the OCC notes that a covered bank's various plans are not intended to operate in a vacuum and must be compatible with each other in order to be effective.

Title: OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches

OMB Control No.: To be assigned by OMB.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit organizations.

Burden Estimates:

Total Number of Respondents: 25.

Total Burden per Respondent: 7,543 hours.

Total Burden for Collection: 188,575 hours.

Comments should be submitted as provided below and continue to be invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the OCC's functions, including whether the information has practical utility; (2) the accuracy of the OCC's estimate of the burden of the proposed information collection, including the cost of compliance; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of IT.

Because paper mail may be subject to delay, commenters are encouraged to submit comments by email to *regs.comments@occ.treas.gov,* if possible. Alternatively, comments may be mailed to Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0321, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219 or faxed to (571) 465–4326. Additionally, commenters should send a copy of their comments to the OCC's OMB desk officer by: mail to Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503; fax to (202) 395–6974; or email to *oira.submission@omb.eop.gov.*

You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to a security screening.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may request additional information on the collection from Shaquita Merritt, Program Specialist, at (202) 649–6302 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 603 of the RFA is not required if the agency certifies that a rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include commercial banks and savings institutions with assets less than or equal to $550 million and trust companies with assets less than or equal to $38.5 million) and publishes this certification and a short, explanatory statement in the **Federal Register** with the rule. The OCC has determined that the Final Guidelines will have no impact on small entities. The Final Guidelines apply only to insured national banks, insured Federal savings associations, and insured Federal branches of foreign banks with $50 billion or more in average total consolidated assets. Although the Final Guidelines reserve the OCC's authority to apply them to an insured national bank, insured Federal savings association, or insured Federal branch of a foreign bank with less than $50 billion in average total consolidated assets if the OCC determines such entity is highly complex or otherwise presents a heightened risk, the OCC does not expect to determine any small entities to be highly complex or otherwise to present a heightened risk. Therefore, the OCC certifies that these Final Guidelines will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act Analysis

In accordance with section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), the OCC prepares a budgetary impact statement before promulgating any rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation). The OCC has determined that these Final Guidelines will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation). Accordingly, the OCC has not prepared a budgetary impact statement.

Consideration of Administrative Burdens and Benefits and Effective Date

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) (12 U.S.C. 4802(a)) requires the OCC, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, to consider, consistent with the principles of safety and soundness and the public interest, (1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions and customers of depository institutions; and (2) the benefits of such regulations. In determining the effective date and administrative compliance requirements for these Final Guidelines, the OCC has considered these burdens and benefits, including the requests of commenters for a phased-in compliance period. To this end, the Final Guidelines include phased-in compliance dates and recognize the need for flexibility with respect to the timing of management's annual recovery plan review.

Section 302(b) of CDRI (12 U.S.C. 4802(a)) requires that new OCC regulations, which impose additional reporting, disclosures, or other new requirements on insured depository institutions, take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, subject to certain exceptions not relevant here. This is in addition to the requirement in section 553(d) (5 U.S.C. 553(d)) of the Administrative Procedure Act, which requires that a substantive rule be effective no fewer than 30 days after its publication, subject to certain exceptions not relevant here. The effective date of these Final Guidelines is consistent with these requirements.

List of Subjects in 12 CFR Part 30

Banks, Banking, Consumer protection, National banks, Privacy, Safety and soundness, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of 12 U.S.C. 93a, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 371, 1462a, 1463, 1464, 1467a, 1818, 1828, 1831p–1, 1881–1884, 3102(b) and 5412(b)(2)(B); 15 U.S.C. 1681s, 1681w, 6801, and 6805(b)(1).

§ 30.1 [Amended]

■ 2. Section 30.1 is amended by removing, in paragraph (a), "appendices A, B, C, and D" and adding in its place "appendices A, B, C, D, and E".

■ 3. Section 30.2 is amended by adding a sentence at the end of the paragraph to read as follows:

§ 30.2 Purpose.

* * * The OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches are set forth in appendix E to this part.

§ 30.3 [Amended]

■ 4. Section 30.3 is amended in paragraph (a) by removing "the OCC Guidelines Establishing Standards for Residential Mortgage Lending Practices set forth in appendix C to this part, or the OCC Guidelines Establishing Heightened Standards for Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches set forth in appendix D to this part" and adding in its place "the OCC Guidelines Establishing Standards for Residential Mortgage Lending Practices set forth in appendix C to this part, the OCC Guidelines Establishing Heightened Standards for Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches set forth in appendix D to this part, or the OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches set forth in appendix E to this part".

■ 5. Appendix E is added to part 30 to read as follows:

Appendix E to Part 30—OCC Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured Federal Savings Associations, and Insured Federal Branches

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I. Introduction

A. *Scope.* This appendix applies to a covered bank, as defined in paragraph I.E.3. of this appendix.

B. *Compliance date.*

1. A covered bank with average total consolidated assets, calculated according to paragraph I.E.1. of this appendix, equal to or greater than $750 billion as of January 1, 2017 should comply with this appendix within 6 months from January 1, 2017.

2. A covered bank with average total consolidated assets, calculated according to paragraph I.E.1. of this appendix, equal to or greater than $100 billion but less than $750 billion as of January 1, 2017 should comply with this appendix within 12 months from January 1, 2017.

3. A covered bank with average total consolidated assets, calculated according to paragraph I.E.1. of this appendix, equal to or greater than $50 billion but less than $100 billion as of January 1, 2017 should comply with this appendix within 18 months from January 1, 2017.

4. A bank with average total consolidated assets, calculated according to paragraph I.E.1. of this appendix, of less than $50 billion as of January 1, 2017 but which subsequently becomes a covered bank should comply with this appendix within 18 months of becoming a covered bank.

C. *Reservation of authority.*

1. The OCC reserves the authority:

a. To apply this appendix, in whole or in part, to a bank that has average total consolidated assets of less than $50 billion, if the OCC determines such bank is highly complex or otherwise presents a heightened risk that warrants the application of this appendix; or

b. To determine that compliance with this appendix should not be required for a covered bank. The OCC will generally make this determination if a covered bank's operations are no longer highly complex or no longer present a heightened risk.

2. In determining whether a bank or covered bank is highly complex or presents a heightened risk, the OCC will consider the bank's size, risk profile, scope of operations, activities, and complexity, including the complexity of its organizational and legal entity structure. Before exercising the authority reserved by paragraph I.C.1. of this appendix, the OCC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 3.404.

D. *Preservation of existing authority.* Neither section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1) nor this appendix in any way limits the authority of the OCC to address unsafe or unsound practices or conditions or other violations of law. The OCC may take action under section 39 and this appendix independently of, in conjunction with, or in addition to any other enforcement action available to the OCC.

E. *Definitions.*

1. *Average total consolidated assets* means the average total consolidated assets of the bank or the covered bank, as reported on the bank's or the covered bank's Consolidated Reports of Condition and Income for the four most recent consecutive quarters.

2. *Bank* means any insured national bank, insured Federal savings association, or insured Federal branch of a foreign bank.

3. *Covered bank* means any bank:

a. With average total consolidated assets equal to or greater than $50 billion;

b. With average total consolidated assets of less than $50 billion if the bank was previously a covered bank, unless the OCC determines otherwise; or

c. With average total consolidated assets less than $50 billion, if the OCC determines that such bank is highly complex or otherwise presents a heightened risk as to warrant the application of this appendix pursuant to paragraph I.C.1.a. of this appendix.

4. *Recovery* means timely and appropriate action that a covered bank takes to remain a going concern when it is experiencing or is likely to experience considerable financial or operational stress. A covered bank in recovery has not yet deteriorated to the point where liquidation or resolution is imminent.

5. *Recovery plan* means a plan that identifies triggers and options for responding to a wide range of severe internal and external stress scenarios to restore a covered bank that is in recovery to financial strength and viability in a timely manner. The options should maintain the confidence of market participants, and neither the plan nor the options may assume or rely on any extraordinary government support.

6. *Trigger* means a quantitative or qualitative indicator of the risk or existence of severe stress, the breach of which should always be escalated to senior management or the board of directors (or appropriate committee of the board of directors), as appropriate, for purposes of initiating a response. The breach of any trigger should result in timely notice accompanied by sufficient information to enable management of the covered bank to take corrective action.

II. Recovery Plan

A. *Recovery plan.* Each covered bank should develop and maintain a recovery plan that is specific to that covered bank and appropriate for its individual size, risk profile, activities, and complexity, including the complexity of its organizational and legal entity structure.

B. *Elements of recovery plan.* A recovery plan under paragraph II.A. of this appendix should include the following elements:

1. *Overview of covered bank.* A recovery plan should describe the covered bank's overall organizational and legal entity structure, including its material entities, critical operations, core business lines, and core management information systems. The plan should describe interconnections and interdependencies (i) across business lines within the covered bank, (ii) with affiliates in a bank holding company structure, (iii) between a covered bank and its foreign subsidiaries, and (iv) with critical third parties.

2. *Triggers.* A recovery plan should identify triggers that appropriately reflect the covered bank's particular vulnerabilities.

3. *Options for recovery.* A recovery plan should identify a wide range of credible options that a covered bank could undertake to restore financial strength and viability, thereby allowing the bank to continue to operate as a going concern and to avoid liquidation or resolution. A recovery plan should explain how the covered bank would carry out each option and describe the timing required for carrying out each option. The recovery plan should specifically identify the recovery options that require regulatory or legal approval.

4. *Impact assessments.* For each recovery option, a covered bank should assess and describe how the option would affect the covered bank. This impact assessment and description should specify the procedures the covered bank would use to maintain the financial strength and viability of its material entities, critical operations, and core business lines for each recovery option. For each option, the recovery plan's impact assessment should address the following:

a. The effect on the covered bank's capital, liquidity, funding, and profitability;

b. The effect on the covered bank's material entities, critical operations, and core business lines, including reputational impact; and

c. Any legal or market impediment or regulatory requirement that must be addressed or satisfied in order to implement the option.

5. *Escalation procedures.* A recovery plan should clearly outline the process for escalating decision-making to senior management or the board of directors (or an appropriate committee of the board of directors), as appropriate, in response to the breach of any trigger. The recovery plan should also identify the departments and persons responsible for executing the decisions of senior management or the board of directors (or an appropriate committee of the board of directors).

6. *Management reports.* A recovery plan should require reports that provide senior management or the board of directors (or an appropriate committee of the board of directors) with sufficient data and information to make timely decisions regarding the appropriate actions necessary to respond to the breach of a trigger.

7. *Communication procedures.* A recovery plan should provide that the covered bank notify the OCC of any significant breach of a trigger and any action taken or to be taken in response to such breach and should explain the process for deciding when a breach of a trigger is significant. A recovery plan also should address when and how the covered bank will notify persons within the organization and other external parties of its action under the recovery plan. The recovery plan should specifically identify how the covered bank will obtain required regulatory or legal approvals.

8. *Other information.* A recovery plan should include any other information that the OCC communicates in writing directly to the covered bank regarding the covered bank's recovery plan.

C. *Relationship to other processes; coordination with other plans.* The covered bank should integrate its recovery plan into its risk governance functions. The covered bank also should align its recovery plan with its other plans, such as its strategic; operational (including business continuity); contingency; capital (including stress testing); liquidity; and resolution planning. The covered bank's recovery plan should be specific to that covered bank. The covered bank also should coordinate its recovery plan with any recovery and resolution planning efforts by the covered bank's holding company, so that the plans are consistent with and do not contradict each other.

III. Management's and Board of Directors' Responsibilities

The recovery plan should address the following management and board responsibilities:

A. *Management.* Management should review the recovery plan at least annually and in response to a material event. It should revise the plan as necessary to reflect material changes in the covered bank's size, risk profile, activities, and complexity, as well as changes in external threats. This review should evaluate the organizational structure and its effectiveness in facilitating a recovery.

B. *Board of directors.* The board is responsible for overseeing the covered bank's recovery planning process. The board of directors (or an appropriate committee of the board of directors) of a covered bank should review and approve the recovery plan at least annually, and as needed to address significant changes made by management.

Dated: September 21, 2016.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2016–23366 Filed 9–28–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9116; Directorate Identifier 2016–NM–130–AD; Amendment 39–18672; AD 2016–20–06]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Gulfstream Aerospace Corporation Model G–1159, G–1159A, G–1159B, and G–IV airplanes. This AD requires revision of the maintenance or inspection program to establish the life limit of all elevator assemblies and skins on affected airplanes. This AD was

prompted by the need to establish life limits for certain elevator assemblies and skins. We are issuing this AD to prevent failure of the elevator assembly and consequent loss of control of the airplane.

DATES: This AD is effective October 14, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 23, 2016 (81 FR 61987, September 8, 2016).

We must receive comments on this AD by November 14, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9116.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9116; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: William O. Herderich, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5547; fax: 404–474–5606; email: *William.O.Herderich@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have determined that it is necessary to establish life limits for certain elevator assemblies and skins. Certain elevator assemblies and skins were reidentified with numbers not listed in the life limits section of the airplane maintenance manual. As a result, the life limit requirement was inadvertently removed. An airplane with an elevator assembly or skin that has exceeded its life limit could experience elevator failure and loss of control. We are issuing this AD to correct the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed the following temporary revisions (TRs):

- Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.
- Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.
- Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.
- Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.

This service information establishes life limits for elevator assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires revising the maintenance or inspection program, as applicable, to establish life limits for certain elevator assemblies and skins.

Due to a delay in defining and developing the corrective action that will address the identified unsafe condition, some elevator assemblies may exceed their life limits soon. Because we have determined that exceeding those life limits can result in loss of airplane control, we have determined that it is necessary to issue this AD without notice and opportunity for prior public comment. We consider 30 days the maximum amount of time for operators to revise their maintenance or inspection programs without compromising safety.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure of the elevator could result in loss of control of the airplane. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2016–9116 and Directorate Identifier 2016–NM–130–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 596 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance/inspection program revision	1 work-hour × $85 per hour = $85	$0	$85	$50,660

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs" describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–20–06 Gulfstream Aerospace Corporation: Amendment 39–18672; Docket No. FAA–2016–9116; Directorate Identifier 2016–NM–130–AD.

(a) Effective Date

This AD is effective October 14, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Gulfstream Aerospace Corporation Model G–1159, G–1159A, G–1159B, and G–IV airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by the need to establish life limits for elevator assemblies and skins. We are issuing this AD to prevent failure of the elevator assembly and consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Revision of Maintenance/Inspection Program

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the life limits identified in paragraphs (g)(1) through (g)(4) of this AD, as applicable. The initial compliance time to replace the elevator assembly and skins, as specified in the temporary revision (TR), is as specified in the applicable TR, or within 30 days after the effective date of this AD, or within 10 flight cycles after the effective date of this AD, whichever occurs latest.

(1) For Model G–1159 airplanes: Life limits for elevator skin part numbers 1159CS20002 and 1159SB30209 as specified in Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.

(2) For Model G–1159B airplanes: Life limits for elevator part number 1159SB30209 as specified in Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.

(3) For Model G–1159A airplanes: Life limit for elevator part number 1159SB30209 as specified in Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.

(4) For Model G–IV airplanes: Life limit for elevator part number 1159SB40518 as specified in Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.

(h) No Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(i) Special Flight Permit

A special flight permit may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane, for one flight only, to a location where the elevator assembly can be replaced, as required by paragraph (g) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact William O. Herderich, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5547; fax: 404–474–5606; email: *William.O.Herderich@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on September 23, 2016 (81 FR 61987, September 8, 2016).

(i) Gulfstream II Maintenance Manual TR 5–3, dated April 15, 2016.

(ii) Gulfstream IIB Maintenance Manual TR 5–3, dated April 15, 2016.

(iii) Gulfstream III Maintenance Manual TR 5–2, dated April 15, 2016.

(iv) Gulfstream IV Maintenance Manual TR 5–7, dated April 29, 2016.

(4) For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone 800–810–4853; fax 912–965–3520; email *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on September 15, 2016.

Suzanne Masterson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–23091 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 120 and 126

[Public Notice: 9602]

RIN 1400–AD95

Amendment to the International Traffic in Arms Regulations: Tunisia, Eritrea, Somalia, the Democratic Republic of the Congo, Liberia, Côte d'Ivoire, Sri Lanka, Vietnam, and Other Changes

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to designate Tunisia as a major non-NATO ally (MNNA); reorganize the content in several paragraphs to clarify the intent of the ITAR; update defense trade policy regarding Eritrea, Somalia, the Democratic Republic of the Congo, Liberia, and Côte d'Ivoire to reflect resolutions adopted by the United Nations Security Council; update defense trade policy regarding Sri Lanka to reflect the Consolidated Appropriations Act, 2016; and update defense trade policy regarding Vietnam to reflect a determination made by the Secretary of State.

DATES: The rule is effective on September 29, 2016. The Department of State will accept comments on this interim final rule until October 31, 2016.

ADDRESSES: Interested parties may submit comments within 30 days of the date of publication by one of the following methods:

- *Email: DDTCPublicComments@state.gov* with the subject line, "ITAR Amendment—Section 126.1 Re-organization."
- *Internet:* At *www.regulations.gov,* search for docket number DOS–2016–0059.

Comments received after that date may be considered, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663–2792, or email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, ITAR Section 126.1 Update 2016.

SUPPLEMENTARY INFORMATION: In Presidential Determination No. 2015–09, on July 10, 2015, President Obama exercised his authority under § 517 of the Foreign Assistance Act of 1961 (FAA) to designate Tunisia as a MNNA for the purposes of the FAA and the Arms Export Control Act (AECA). The Department of State amends ITAR § 120.32 to reflect this change.

Paragraphs (a), (c), and (d) of § 126.1 of the ITAR are updated to enhance their clarity. The fundamental content of the aforementioned paragraphs is not changing, but is reorganized in this rule by subject matter. The lists of proscribed countries were previously in multiple paragraphs, but are now consolidated in paragraph (d). Provisions relevant to the rationale for defense trade sanctions, previously located in paragraphs (a), (c), and (d) are now consolidated in paragraph (c). Section 126.18 of the ITAR is amended to maintain conformity with revised paragraph (d) of ITAR § 126.1.

Recent actions by the United Nations (UN), Congress, and the Executive require the Department to amend ITAR § 126.1 to reflect the change in policy towards individual nations identified in that section.

On October 23, 2015, the United Nations Security Council (UNSC) adopted United Nations Security Council Resolution (UNSCR) 2244, which reaffirmed the arms embargoes on Eritrea and Somalia. Exemptions from the arms embargo on Somalia are set forth in paragraphs 6 through 11 of UNSCR 2111 and paragraphs 2 through 9 of UNSCR 2142. Thus subparagraphs (1) and (2) of § 126.1(m) of the ITAR have been revised to reflect this change, and subparagraphs (3) through (6) are added to reflect new exceptions for Somalia as enumerated in UNSCR 2111. The revised control text follows the language as published in the aforementioned UNSCRs.

Exemptions from the arms embargo on Eritrea are set forth in paragraphs 12 and 13 of UNSCR 2111; consequently, Eritrea will be moved to paragraph (h) of § 126.1. The revised control text follows the language as published in the aforementioned UNSCRs. The Department modifies paragraph (h) of ITAR § 126.1 accordingly.

On June 23, 2016, the UNSC adopted Resolution 2293, which expanded the exemptions from the arms embargo on the Democratic Republic of the Congo. Exemptions from the arms embargo are set forth in paragraph 3 of the UNSCR. The revised control text follows the language as published in the aforementioned UNSCR. The Department modifies paragraph (i) of ITAR § 126.1 accordingly.

On May 25, 2016, the UNSC adopted Resolution 2288, which terminated the sanctions regime against Liberia, including restrictions on exports to Liberia of arms and related materiel. The Department reserves paragraph (o) to remove Liberia from ITAR § 126.1.

On April 28, 2016 the UNSC adopted Resolution 2283, which terminated the sanctions regime against Côte d'Ivoire, including restrictions on exports to Côte d'Ivoire of arms and related materiel. The Department reserves paragraph (q) to remove Côte d'Ivoire from ITAR § 126.1.

Licensing restrictions relating to Sri Lanka articulated in section 7044(e) of the Consolidated Appropriations Act, 2015, Public Law 113–235, and in previous appropriations acts, were not carried forward in section 7044(e) of the Consolidated Appropriations Act, 2016, Public Law 114–113. Therefore, the Department reserves paragraph (n) to remove Sri Lanka from ITAR § 126.1.

The Secretary of State lifted the ban on lethal weapons sales to Vietnam in May 2016. Accordingly, the Department reserves paragraph (l) and the associated note to remove Vietnam from ITAR § 126.1.

For more information, please visit the Directorate of Defense Trade Controls (DDTC) internet Web site at *https://www.pmddtc.state.gov/.*

Request for Comments

The Department invites public comment regarding the organization and clarity of paragraphs (a), (c), and (d) of ITAR § 126.1, as set forth in this rulemaking. Comments regarding the foreign policy of the United States as described herein are outside of the scope of this request.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since this rule is exempt from 5 U.S.C. 553, the provisions of § 553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards the aforementioned countries, there is good cause for the effective date of this rule to be the date of publication, as provided by 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Since this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Department has determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has determined that the benefits of this rulemaking outweigh any cost to the public, which the Department believes will be minimal. This rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Parts 120 and 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 120 and 126 are amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 120.32 is revised to read as follows:

§ 120.32 Major non-NATO ally.

Major non-NATO ally, as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)), means a country that is designated in accordance with section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) as a major non-NATO ally for purposes of the Foreign Assistance Act of 1961 and the Arms Export Control Act (22 U.S.C. 2151 *et seq.* and 22 U.S.C. 2751 *et seq.*). The following countries are designated as major non-NATO allies: Afghanistan (*see* § 126.1(g) of this subchapter), Argentina, Australia, Bahrain, Egypt, Israel, Japan, Jordan, Kuwait, Morocco, New Zealand, Pakistan, the Philippines, Republic of Korea, Thailand, and Tunisia. Taiwan shall be treated as though it were designated a major non-NATO ally.

PART 126—GENERAL POLICIES AND PROVISIONS

■ 3. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266; Sections 7045 and 7046, Pub. L. 112–74; E.O. 13637, 78 FR 16129.

■ 4. Section 126.1 is amended by

■ a. Revising paragraphs (a), (c), and (d);
■ b. Adding paragraph (h);
■ c. Revising paragraphs (i)(2) and (3):
■ d. Adding paragraph (i)(5):
■ e. Removing and reserving paragraph (l);
■ f. Revising paragraph (m); and
■ g. Removing and reserving paragraphs (n), (o), and (q).

The revisions and additions read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. The exemptions provided in this subchapter, except §§ 123.17, 126.4, and 126.6 of this subchapter, or when the recipient is a U.S. government department or agency, do not apply with respect to defense articles or defense services originating in or for export to any proscribed countries, areas, or persons. (See § 129.7 of this subchapter, which imposes restrictions on brokering activities similar to those in this section).

* * * * *

(c) Identification in § 126.1 of the ITAR may derive from:

(1) *Exports and sales prohibited by United Nations Security Council sanctions measures.* Whenever the United Nations Security Council mandates sanctions measures, all transactions that are prohibited by the aforementioned measures and involve U.S. persons (see § 120.15 of this subchapter) inside or outside of the United States, or any person in the United States, and defense articles or defense services described on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the sanction, unless the Department of State publishes a notice in the **Federal Register** specifying different measures.

(2) *Terrorism.* Exports or temporary imports of defense articles or defense services to countries that the Secretary of State has determined to be State Sponsors of Terrorism are prohibited under the ITAR. These countries have repeatedly provided support for acts of international terrorism, which is contrary to the foreign policy of the United States and thus subject to the policy specified in paragraph (a) of this section and the requirements of section 40 of the Arms Export Control Act (22 U.S.C. 2780) and the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801). Exports to countries that the Secretary of State has determined and certified to Congress, pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781) and Executive Order 13637, are not cooperating fully with United States antiterrorism efforts are subject to the policy specified in paragraph (a) of this section. The Secretary of State makes such determinations and certifications annually.

(3) *Arms embargoes and sanctions.* The policy specified in paragraph (a) of this section applies to countries subject to a United States arms embargo or sanctions regime, such as those described in the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*), the International Religious Freedom Act of 1998 (22 U.S.C. 6401 *et seq.*), or the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c–2370c–2), or whenever an export of defense articles or defense services would not otherwise be in furtherance of world peace and the security and foreign policy of the United States.

(d) *Countries subject to certain prohibitions:*

(1) For defense articles and defense services, the following countries have a policy of denial:

Country
Belarus.
Burma.
China.
Cuba.
Iran.
North Korea.
Syria.
Venezuela.

(2) For defense articles and defense services, a policy of denial applies to the following countries except as specified in the associated paragraphs below:

Country	Country specific paragraph location
Afghanistan	See also paragraph (g) of this section.
Central African Republic	See also paragraph (u) of this section.
Cyprus	See also paragraph (r) of this section.
Democratic Republic of Congo	See also paragraph (i) of this section.
Eritrea	See also paragraph (h) of this section.
Haiti	See also paragraph (j) of this section.
Iraq	See also paragraph (f) of this section.
Lebanon	See also paragraph (t) of this section.
Libya	See also paragraph (k) of this section.
Somalia	See also paragraph (m) of this section.
Sudan	See also paragraph (v) of this section.
Zimbabwe	See also paragraph (s) of this section.

* * * * *

(h) *Eritrea.* It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Eritrea, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the relevant committee of the Security Council; or

(2) Personal protective clothing, including flak jackets and military helmets, temporarily exported to Eritrea by United Nations personnel, representatives of the media, humanitarian and development workers, and associated personnel for their personal use only.

(i) * * *

(2) Defense articles and defense services intended solely for the support of or use by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) or the African Union-Regional Task Force;

(3) Protective clothing, including flak jackets and military helmets, temporarily exported to the Democratic Republic of the Congo by United Nations personnel, representatives of the media, and humanitarian and

development workers and associated personnel, for their personal use only;

* * * * *

(5) Defense articles and defense services as approved by the relevant committee of the Security Council.

* * * * *

(l) [Reserved]

(m) *Somalia.* It is the policy of the United States to deny licenses or other approvals for exports or imports of defense articles and defense services destined for or originating in Somalia, except that a license or other approval may be issued, on a case-by-case basis, for:

(1) Defense articles and defense services intended solely for the support of or use by the following:

(i) The African Union Mission in Somalia (AMISOM);

(ii) United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM);

(iii) AMISOM's strategic partners, operating solely under the African Union (AU) Strategic Concept of January 5, 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM; or

(iv) The European Union Training Mission (EUTM) in Somalia.

(2) Defense articles and defense services intended solely for the development of the Security Forces of the Federal Government of Somalia, to provide security for the Somali people, notified to the relevant committee of the Security Council at least five days in advance, except in relation to deliveries of the following articles, the supply of which needs to be approved in advance by the relevant committee of the Security Council:

(i) Surface to air missiles, including Man-Portable Air-Defense Systems (MANPADS);

(ii) Guns, howitzers, and cannons with a caliber greater than 12.7 mm, and ammunition and components specially designed for these (this does not include shoulder fired anti-tank rocket launchers such as RPGs or LAWs, rifle grenades, or grenade launchers);

(iii) Mortars with a caliber greater than 82 mm;

(iv) Anti-tank guided weapons, including Anti-tank Guided Missiles (ATGMs) and ammunition and components specially designed for these items;

(v) Charges and devices intended for military use containing energetic material; mines, and related materiel; and

(vi) Weapon sights with a night vision capability.

(3) Defense articles and defense services supplied by United Nations member states or international, regional, or subregional organizations intended solely for the purposes of helping develop Somali security sector institutions, other than the Security Forces of the Federal Government of Somalia, and in the absence of a negative decision by the relevant committee of the Security Council within five working days of receiving a notification of any such assistance from the supplying State, international, regional or subregional organization;

(4) Defense articles for the sole use by United Nations member states or international, regional, or subregional organizations undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia, upon the request of the Federal Government of Somalia for which it has notified the Secretary-General, and provided that any measures undertaken shall be consistent with applicable international humanitarian and human rights laws;

(5) Personal protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media, humanitarian or development workers, or associated personnel for their personal use only; or

(6) Supplies of non-lethal defense articles intended solely for humanitarian or protective use, notified to the relevant committee of the Security Council five days in advance for its information only, by the supplying State, international, regional, or subregional organization.

(n)–(o) [Reserved]

* * * * *

(q) [Reserved]

* * * * *

■ 5. Section 126.18 is amended by revising the fourth sentence of paragraph (c)(2) to read as follows:

§ 126.18 Exemptions regarding intra-company, intra-organization, and intra-government transfers to employees who are dual nationals or third-country nationals.

* * * * *

(c) * * *

(2) * * * Although nationality does not, in and of itself, prohibit access to defense articles, an employee who has substantive contacts with persons from countries listed in § 126.1(d)(1) shall be presumed to raise a risk of diversion, unless DDTC determines otherwise.

* * *

Rose E. Gottemoeller,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2016–23284 Filed 9–28–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0668]

Drawbridge Operation Regulation; James River, Hopewell, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation; modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the SR 156/Benjamin Harrison Memorial Bridge across the James River, mile 65.0, at Hopewell, VA. This modified deviation is necessary to extend the deviation timeframe to perform bridge maintenance and repairs. This modified deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This modified deviation is effective without actual notice from September 29, 2016 through 6 a.m. on October 28, 2016. For the purposes of enforcement, actual notice will be used from September 22, 2016, 8:45 a.m., until September 29, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0668] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this modified temporary deviation, call or email Mr. Michael R. Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: On July 25, 2016, the Coast Guard published a temporary deviation entitled "Drawbridge Operation Regulation; James River, Hopewell, VA" in the **Federal Register** (81 FR 49898). Under that temporary deviation, the bridge would be maintained in the closed-to-navigation position from 8 p.m. through 6 a.m.; Monday through Thursday; July

25, 2016, through July 29, 2016; August 1, 2016, through August 5, 2016; September 5, 2016, through September 9, 2016; September 12, 2016, through September 16, 2016; and alternative dates from September 19, 2016, through September 23, 2016; and September 26, 2016, through September 30, 2016. The bridge would open for vessels on signal during scheduled closure periods, if at least 24 hours notice was given.

The Virginia Department of Transportation, who owns and operates the SR 156/Benjamin Harrison Memorial Bridge, has requested a modified temporary deviation from the currently published deviation to extend the deviation timeframe to facilitate replacement of the service elevators for both lift towers, install new electrical wiring, bird screens, and structural steel of the bridge. The current operating schedule is open on signal as set out in 33 CFR 117.5. This modified temporary deviation serves to replace the previous temporary deviation in the **Federal Register** (81 FR 49898), immediately upon its publication into the **Federal Register**.

Under this modified temporary deviation, the bridge will be maintained in the closed-to-navigation position from 8 p.m. through 6 a.m.; Monday through Friday; October 3, 2016, through October 7, 2016; October 10, 2016, through October 14, 2016; October 17, 2016, through October 21, 2016; and October 24, 2016, through October 28, 2016. The bridge will open for vessels on signal during scheduled closure periods, if at least 10 hours notice is given. The bridge is a vertical lift drawbridge and has a vertical clearance in the closed position of 50 feet above mean high water.

The James River is used by a variety of vessels including deep-draft vessels, tug and barge traffic, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will be able to open for emergencies during scheduled closure periods, if at least 30 minutes notice is given. There is no immediate alternative route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 22, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–23508 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0868]

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Leon C. Simon Blvd. (Seabrook) (aka Senator Ted Hickey) bascule bridge across the Inner Harbor Navigation Canal, mile 4.6, at New Orleans, Orleans Parish, Louisiana. The deviation is necessary to accommodate The Endurance Foundation Festival, a New Orleans event. This deviation allows the bridge to remain closed-to-navigation for a eight hours on the day of the event.

DATES: This deviation is effective from October 2, 2016 from 7 a.m. through 3 p.m.

ADDRESSES: The docket for this deviation, [USCG–2016–0868] is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Donna Gagliano, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *Donna.Gagliano@uscg.mil.*

SUPPLEMENTARY INFORMATION: Premier Event Management, through the Louisiana Department of Transportation and Development (LDOTD), requested a temporary deviation from the operating schedule of the Leon C. Simon Blvd. (Seabrook) (aka Senator Ted Hickey) bascule bridge across the Inner Harbor Navigation Canal, mile 4.6, at New Orleans, Orleans Parish, Louisiana. The deviation was requested to accommodate The Endurance Foundation Festival, a New Orleans event. The vertical clearance of the Leon C. Simon Blvd. (Seabrook) (aka Senator Ted Hickey) bascule bridge is 46 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. The bridge is governed by 33 CFR 117.458(c).

This deviation is effective on October 2, 2016. The bridge over the Inner Harbor Navigation Canal will be closed to marine traffic from 7 a.m. through 3 p.m. This deviation allows the bridge to remain closed-to-navigation for the duration of the event.

Navigation on the waterway consists of small tugs with and without tows, commercial vessels, and recreational craft, including sailboats.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at anytime. The bridge will be able to open for emergencies, and there is no immediate alternate route. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 23, 2016.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2016–23507 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0582]

RIN 1625–AA09

Drawbridge Operation Regulation; Keweenaw Waterway, Houghton and Hancock, MI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule for the US41 bridge, mile 16.0 over the Keweenaw Waterway, between the towns of Houghton and Hancock, Michigan. The use of the waterway has changed and

this rule will modify the schedule that has been in place for approximately 31 years.

DATES: This rule is effective October 31, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type USCG–2016–0582. In the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
MDOT	Michigan Department of Transportation
NEPA	National Environmental Policy Act of 1969
NPRM	Notice of proposed rulemaking
RFA	Regulatory Flexibility Act of 1980
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On July 25, 2016, we published a notice of proposed rulemaking (NPRM) entitled, Drawbridge Operation Regulation; Keweenaw Waterway, Houghton and Hancock, MI, in the **Federal Register** (81 FR 48369). We did not receive any comments on this proposed rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. MDOT requested to change the operating schedule of the US41 (Houghton-Hancock) bridge (33 CFR 117.635). The US41 bridge is the only crossing over the Keweenaw Waterway and connects the towns of Houghton and Hancock, Michigan. The current operating schedule has been in place for approximately 31 years and the use of the waterway has changed significantly, prompting the request to modify the current regulation to reflect current needs of navigation.

Keweenaw Peninsula is the northernmost part of Michigan's Upper Peninsula projecting into Lake Superior. The Keweenaw Waterway runs northwesterly to southeasterly and separates the peninsula from the mainland making the US41 bridge the only bridge crossing for residents and visitors to the peninsula.

The Keweenaw Waterway is used by recreational, commercial, inspected and uninspected passenger, and towing vessels. The US41 bridge is a vertical lift type drawbridge and provides a horizontal clearance of 250 feet, a vertical clearance of 103 feet in the fully open position, a vertical clearance of 7 feet in the closed position, and a vertical clearance of 35 feet in the intermediate position. The US41 bridge is a bi-level bridge originally designed with the upper level providing access for automobiles and the lower level providing access for rail, oversized vehicles, and snowmobiles.

The rail service to the peninsula has been discontinued and oversized vehicles must provide advance notice to the state before traveling over the road to the peninsula. Most recreational and commercial vessel traffic, including passenger vessel services, end prior to November 15 each year and do not resume services until after May 7 due to the formation of ice in the waterway. Large commercial freighter vessels do not routinely pass through the Keweenaw Waterway.

MDOT requested to remove bridgetenders between the hours of midnight and 4:00 a.m. each day and operate the bridge if at least 2-hours advance notice is provided between those hours during the navigation season. The table below shows total bridge opening data provided by MDOT, from April 16 to December 14, between the hours of midnight and 4 a.m., for the past 6 years.

Year	Openings
2010	4
2011	6
2012	6
2013	10
2014	7
2015	6

The current regulation also requires the bridge to operate with a 24-hour advance notice for openings from January 1 through March 15 each year. The table below shows the total bridge opening data provided by MDOT, between December 15 and April 15, for the past 5 years.

Year	Openings
2011	0
2012	1
2013	5
2014	0
2015	0

IV. Discussion of Comments, Changes and the Final Rule

Based on the bridge opening data provided by MDOT, only one year (2013) resulted in more than 7 openings, or an average of one opening per month, between the hours of midnight and 4:00 a.m. between mid-April and mid-December, during the past 6 years. This rule will allow the bridge to operate with at least a 2-hour advance notice for openings from April 15 through December 15 between the hours of midnight and 4 a.m. During these hours no bridgetender will be required at the bridge. The bridge will be placed in the intermediate position during this 4-hour time period providing a vertical clearance of 35 feet. Vessels requiring a full bridge opening will still be able to obtain an opening with a 2-hour advance notice. Vessels may also go around the peninsula to avoid passing through the bridge.

Based on the bridge opening data provided by MDOT, only one year (2013) resulted in more than one bridge opening for the entire period between mid-December and mid-April during the past 6 years. The standard advance notice time applied to most drawbridges in the Great Lakes during the non-navigation season is 12-hours advance notice. This rule will allow the bridge to operate with at least 12-hour advance notice for openings from December 15 through April 15. During these dates no bridgetender will be required at the bridge. Vessels may also go around the peninsula to avoid passing under the bridge.

The Coast Guard provided a comment period of 30 days and did not receive any comments.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866.

Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice during times when vessel traffic is at its lowest.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard did not receive any comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would not have a significant economic impact on any vessel owner or operator because the bridges will open with advance notice during low traffic times on the waterway or when ice conditions hinder normal navigation.

While some owners or operators of vessels intending to transit the bridges may be small entities, for the reasons stated in section V.A above, this rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.635 to read as follows:

§ 117.635 Keweenaw Waterway.

The draw of the US41 bridge, mile 16.0 between Houghton and Hancock, shall open on signal; except that from April 15 through December 14, between midnight and 4 a.m., the draw shall be placed in the intermediate position and open on signal if at least 2 hours notice is given. From December 15 through April 14 the draw shall open on signal if at least 12 hours notice is given.

Dated: September 15, 2016.

J.E. Ryan,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2016–23576 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0825]

RIN 1625–AA00

Safety Zone: Monte Foundation Fireworks Extravaganza, Capitola, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters at Capitola Wharf in Capitola, CA in support of Monte Foundation Fireworks Extravaganza on October 9, 2016. This safety zone is established to ensure the safety of mariners and spectators from the dangers associated with the pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 8:30 p.m. to 9 p.m. on October 9, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0825 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Christina Ramirez, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585 or email at *D11–PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

APA	Administrative Procedure Act
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register

A. Background Information and Regulatory History

The Coast Guard is issuing this rule without prior notice pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the information about the fireworks display on August 10, 2016, and the fireworks display would occur before the rulemaking process would be completed. Because of the dangers posed by the pyrotechnics used in this fireworks display, the safety zone is necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For those reasons, it would be impracticable to publish an NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For these same reasons, the Coast Guard finds good cause for implementing this rule less than thirty days before the effective date.

B. Basis and Purpose

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

The Monte Foundation will sponsor the Monte Foundation Fireworks Extravaganza on October 9, 2016, at Capitola Wharf in Capitola, CA in approximate position 36°58′10″ N., 121°57′12″ W. (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18685. Upon the commencement of the fireworks display, a safety zone is necessary to protect spectators, vessels, and other property from the hazards associated with pyrotechnics.

C. Discussion of the Interim Rule

This temporary safety zone will encompass the navigable waters around the land based launch site at the Capitola Wharf in Capitola, CA. Upon the commencement of the 25-minute fireworks display, scheduled to begin at 8:30 p.m. on October 9, 2016, the safety zone will encompass the navigable waters around the fireworks launch site within a radius of 1,000 feet in approximate position 36°58′10″ N., 121°57′12″ W. (NAD 83) for the Monte Foundation Fireworks Extravaganza. At the conclusion of the fireworks display the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the launch site until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the launch site to ensure the safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

1. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited duration. When the safety zone is activated, vessel traffic could pass safely around the safety zone. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

3. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

4. Federalism and Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

5. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

6. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

7. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–802 to read as follows:

§ 165.T11–802 Safety Zone; Monte Foundation Fireworks Extravaganza, Capitola, CA.

(a) *Location.* This safety zone is established in the navigable waters at Capitola Wharf in Capitola, CA, as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18685. The temporary safety zone will encompass the navigable waters around the fireworks launch site in approximate position 36°58′10″ N., 121°57′12″ W. (NAD83) within a radius of 1,000 feet.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 8:30 p.m. through 9 p.m. on October 9, 2016. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with § 165.7.

(c) *Definitions.* As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP to assist in the patrol and enforcement of the safety zones.

(d) *Regulations.* (1) Under the general regulations in subpart C of this part, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: August 26, 2016.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2016–23574 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0895]

RIN 1625–AA00

Safety Zone; Temporary Change to Date and Location for Recurring Pittsburgh Steelers Fireworks Display Within the Eighth Coast Guard District, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement period and location for a recurring fireworks display within the Eighth Coast Guard District. This regulation applies to only one recurring fireworks display event that takes place in Pittsburgh, PA. This action is intended to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based fireworks display.

DATES: In § 165.801, the first table to § 165.801, entry 67 is effective from September 29, 2016 through February 28, 2017. In § 165.801, the first table to § 165.801, entry 59 is suspended from September 29, 2016 through February 28, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0895 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because fireworks displays on or over the navigable waterway poses safety concerns for waterway users. In this case, the Coast Guard published an NPRM entitled, "Sector Ohio Valley Annual and Recurring Safety Zones Update" in which it proposed to amend and update its safety zones listed in 33 CFR 165.801, the first table to § 165.801 relating to recurring fireworks shows and other events within the Coast Guard Sector Ohio Valley area of responsibility. The NPRM published on March 7, 2016 (81 FR 11706), and no comments were received. A final rule was published, entitled, "Sector Ohio Valley Annual and Recurring Safety Zones Update" on June 14, 2016 finalizing the recurring safety zones listed in 33 CFR 165.801, the first table to § 165.801 (81 FR 38595).

On August 25, 2016, the Coast Guard discovered the safety zone listed in 33 CFR 165.801, the first table to § 165.801, entry 59 for the Pittsburgh Steelers Fireworks, Pittsburgh, PA has been changed to extend through February 2017, instead of January 2017, and the location has been changed from Ohio River, Mile 0.3-Allegheny River, Mile 0.2 to Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.3 and Monongahela River mile 0.0–0.1.

After receiving and fully reviewing the event information, circumstances, and exact location, the Coast Guard determined that it is impracticable to publish an NPRM for the date and location changes because we must establish this safety zone on the date of publication of this rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule is contrary to the public interest as immediate action is necessary to prevent possible loss of life and property during the hazards created by a barge-based fireworks display near and over the navigable waterway.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Pittsburgh (COTP) has determined that a safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based fireworks display. For the 2016–2017 Pittsburgh Steelers football season, the Coast Guard will temporarily suspend the regulation listed in 33 CFR 165.801, the first table to § 165.801, entry 59. Instead, by this rule, the Coast Guard will create a separate temporary rule in § 165.801, the first table to § 165.801, entry 67 in order to reflect the correct dates and locations for the 2016–2017 Pittsburgh Steelers' football season fireworks display events. This change is needed to accommodate the change in date and location of Pittsburgh Steelers Fireworks. No other portion of the § 165.801, the first table to § 165.801or other provisions in § 165.801 are affected by this regulation.

IV. Discussion of the Rule

The Coast Guard is temporarily suspending the regulation listed in 33 CFR 165.801, the first table to § 165.801, entry 59 and adding temporary regulation in Table to § 165.801, entry 67 in order to reflect the correct dates and locations for this year's events. This change is needed to accommodate the change in date and location of Pittsburgh Steelers Fireworks. No other portion of the first table to § 165.801 or other provisions in § 165.801 shall be affected by this regulation. Entry 59 establishes the safety zone on Sunday, Monday, or Thursday from September through January at Ohio River, Mile 0.3-Allegheny River, Mile 0.2 (Pennsylvania).

This regulation temporarily changes the enforcement period from September through January to August through February, and the location from Ohio River, Mile 0.3-Allegheny River, Mile 0.2 (Pennsylvania) to Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created from a barge-based firework display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

In addition to notice in the **Federal Register**, the maritime community will be provided advance notification via the Local Notice to Mariners, and marine information broadcasts.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a small portion of the waterway for a limited duration of less than two hours in the evening. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue broadcast notices to mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or

Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less then two hours that will prohibit entry to the Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1 during the barge-based firework event. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.801, in the first table:

■ a. From September 29, 2016 through February 28, 2017, suspend entry "59".

■ b. From September 29, 2016 through February 28, 2017, add entry "67".

The addition reads as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones.

* * * * *

Date	Sponsor/name	Location	Safety zone
* * * * * * *			
67. Sunday, Monday or Thursday from August through February.	Pittsburgh Steelers/Pittsburgh Steelers Fireworks.	Pittsburgh, PA ..	Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.3 and Monongahela River mile 0.0–0.1.

* * * * *

L. Mcclain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

[FR Doc. 2016–23522 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP57

Repayment by VA of Educational Loans for Certain Psychiatrists

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is adding to its medical regulations a program for the repayment of educational loans for certain psychiatrists who agree to a period of obligated service with VA. This program is intended to increase the pool of qualified VA psychiatrists and increase veterans' access to mental health care.

DATES: *Effective Date:* This rule is effective on September 29, 2016, except for § 17.644 which contains information collection requirements that have not been approved by OMB. VA will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Crystal Cruz, Deputy Director, Healthcare Talent Management (10A2A4), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (405) 552–4346. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Public Law 114–2, the Clay Hunt Suicide Prevention for American Veterans Act (Clay Hunt SAV Act), was enacted on February 12, 2015. Section 4 of this Act establishes a pilot program for the repayment of educational loans for certain psychiatrists seeking employment in VA, which will be referred to as the Program for the Repayment of Educational Loans (PREL) in this rulemaking. VA is in need of qualified psychiatrists to treat veterans who suffer from mental health disorders. This rulemaking is intended to increase the pool of qualified mental health specialists and, in turn, increase veterans' access to needed mental health care. The Clay Hunt SAV Act authorizes VA to repay educational loans to physicians who pursued a program of study leading to a certification in psychiatry. In order to assure that applicants are committed to VA employment, the statute provides that an individual who is participating in any other program of the Federal Government that repays educational loans is not eligible for the PREL. The Clay Hunt SAV Act also states that an individual who breaches his or her period of obligated service is liable to the United States, in lieu of such obligated service, for the amount that has been paid or is payable to or on behalf of the individual, reduced by the proportion of the number of days of the total obligation that the individual has already served. Under the Clay Hunt SAV Act, the PREL may continue for three years after the effective date of this rulemaking.

The purpose of section 4 of the Clay Hunt SAV Act is substantively similar to the purpose of the statutory authority for the Educational Debt Reduction Program (EDRP), which is codified at 38 U.S.C. 7681, and section 4 of the Clay Hunt SAV Act appears as a Note to section 7681. Both programs are designed to assist VA in the recruitment and retention of qualified health care professionals and the repayment of educational loans to such individuals. VA did not promulgate regulations for the EDRP because there is no statutory requirement to establish regulations for an employee retention program. 5 U.S.C. 553(a)(2). However, subsection (h) of section 4 of the Clay Hunt SAV Act specifically requires VA to prescribe regulations to carry out the program. We have designed the regulations for the PREL in the Clay Hunt SAV Act to be as similar as possible to the VA policies for the EDRP except in specific identified circumstances unique to the PREL as stated in this rulemaking. Similarities between these two programs will facilitate their administration by VA.

We are adding a new center heading immediately after § 17.636 to read, "Program for Repayment of Educational Loans for Certain VA Psychiatrists," and to add new §§ 17.640 through 17.647.

17.640 Purpose

New § 17.640 is the purpose section for the PREL. This section states that §§ 17.640 through 17.647 establish the requirements for the PREL "obtained by physician residents pursuing a certification in psychiatry."

17.641 Definitions

New § 17.641 is the definitions section applicable to §§ 17.640 through 17.647. The definitions are in alphabetical order in accordance with current writing convention.

We are defining the term "acceptance of conditions" to mean "a signed document between VA and a participant of the PREL, in which the participant must agree to a period of obligated service, to maintain an acceptable level of performance determined by supervisory review in the position to which VA appoints the participant, terms and amount of payment, and to relocate, if required, to a location determined by VA at the participant's expense in exchange for educational loan repayments under the PREL." The participant in the PREL is required to agree to all of the terms and conditions in the acceptance of conditions. The acceptance of conditions is consistent with the acceptance of conditions for the EDRP, with the added requirement of a mobility agreement. This additional requirement alerts the participant to the possibility of relocating to a geographical area that is not in the vicinity of the participant's residence and that such relocation is at the participant's expense. The requirement for relocation allows VA to better address employment needs for psychiatrists within its VA medical facilities. We will, therefore, provide a list of available VA medical facilities that have availability for psychiatrists in the acceptance of conditions, at the time the acceptance of conditions is signed. The applicant will choose a preferred location, in rank ordering, for the completion of his or her obligated period of service from the locations listed on the acceptance of conditions. However, VA will ultimately make the final determination as to where the applicant will perform his or her period of obligated service. We will also state that a "participant of the PREL must agree that he or she is willing to accept the location and position to which VA appoints the participant."

The Clay Hunt SAV Act requires VA to establish in regulation standards for qualified loans. We are defining "educational loan" to mean "a loan, government or commercial, made for educational purposes by institutions which are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the state in which the lender has its principal place of business." We are also stating "[l]oans must be for the actual costs paid for tuition, and other reasonable educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses." This definition will clarify that VA will only repay educational loans, not other types of loans that the participant incurred while the participant was completing his or her education. We are stating that loans must be obtained from a government entity, a private financial institution, a school, or any other authorized entity stated in this definition, as required by section 4(a)(2) of the Clay Hunt SAV Act. For this reason, we are also listing the types of loans that would not qualify for the repayment of educational loans; for example, loans made by family or friends, home equity loans, or other non-educational loans. The definition of educational loan will help ensure that debts repaid under this program are truly unpaid educational debt from legitimate educational institutions; represent debt related specifically to the specialty for which VA is recruiting the participant; and minimize opportunities for fraud or misuse of repayment funds. The definition will be consistent with the definition of educational loans for the EDRP program, and is based on our experience administering that program.

We are defining the term "obligated service" to mean the period described in § 17.646. We are including this definition for convenience, but are setting forth the substantive requirements for obligated service in a separate section.

We are stating that the PREL means the program for the repayment of educational loans for certain VA psychiatrists established in §§ 17.640 through 17.647. This shorter term will be used throughout §§ 17.640 through 17.647.

17.642 Eligibility

New § 17.642(a) will state the eligibility criteria for the PREL. The first criterion, § 17.642(a)(1), is that the applicant be a U.S. citizen. We are stating that the applicant must be a U.S. citizen or permanent resident because the purpose of the program is to increase the supply of qualified psychiatrists. The obligated service requirement could be harder to meet in the case of non-U.S. citizens or permanent residents whose ability to remain in this country is contingent on factors beyond VA's control.

The Clay Hunt SAV Act describes eligible individuals as either licensed or eligible for licensure to practice psychiatric medicine in VA or enrolled in the final year of residency program leading to a specialty qualification in psychiatric medicine that is approved by the Accreditation Council for Graduate Medical Education. Although the Clay Hunt SAV Act provides for two different categories of eligible individuals, for this pilot program, we are only considering those that are enrolled in the final year of residency program leading to a specialty qualification in psychiatric medicine to allow VA to draw from a new pipeline of applicants by securing their commitment to VA service while still in residency. Based on past VA recruitment initiatives, VA has encountered a high yield of qualified applicants among those individuals who are in their final year of residency. Nearly two-thirds of all U.S. medical students train in VA medical facilities. We have encountered a greater success rate for VA employment among these students. Under the EDRP, however, VA cannot recruit from the pool of individuals who are in their final year of residency because the EDRP is solely for individuals who are permanent VA employees. VA will use this new, limited authority, in the pilot to focus solely on applicants still in a residency program. This temporary exclusion for the pilot program is intended for discovery purposes and will be assessed as part of the reporting requirements to determine impact and expansion feasibility.

Individuals who are licensed or eligible for licensure would be considered under the EDRP. Therefore, the second eligibility criteria, in § 17.642(a)(2), is that the applicant be "enrolled in the final year of a post-graduate physician residency program leading to either a specialty qualification in psychiatric medicine or a subspecialty qualification of psychiatry; the program must be accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association." Although the Clay Hunt SAV Act only includes programs accredited by the Accreditation Council for Graduate Medical Education, we are expanding the eligibility to include programs accredited by the American Osteopathic Association to increase the pool of qualified candidates. This expansion also makes the PREL consistent with program accreditation requirements for all other VA medical professionals.

The applicant also has to meet other requirements at the time of employment. Specifically, the applicant must have completed all psychiatry residency training, received a completion certificate from the Program Director confirming successful completion of the residency program, and certify intention to apply for board certification in the specialty of psychiatry (through the American Board of Medical Specialties or the American Osteopathic Association) within two years of completion of the residency.

VA's statute requires applicants be licensed or eligible for licensure to practice psychiatric medicine at the time of VA employment. Licensure criteria is listed in § 17.642(a)(3) and consists of having "at least one full, active, current, and unrestricted license that authorizes the licensee to practice in any State, Territories, and possessions of the United States, the District of Columbia, or the Commonwealth of Puerto Rico" and documentation of "graduation from a school of medicine accredited by the Liaison Committee on Medical Education or the American Osteopathic Association; or, if an international medical graduate, verify that requirements for certification by the Educational Commission for Foreign Medical Graduates have been met." These criteria are consistent with the employment requirements for all VA medical professionals.

New § 17.642(b) stipulates that if the applicant is simultaneously participating in any other program of the Federal Government that repays educational loans, the individual is not eligible to participate in the PREL. This prohibition on simultaneous eligibility is stated in the Clay Hunt SAV Act. See Public Law 114–2, sec. 4(b)(2).

17.643 Application for the PREL

New § 17.643 states what constitutes a complete application for the PREL. New § 17.643(a) states that the complete application for the PREL consists of a completed application form, letters of reference, and personal statement. The letters of reference and personal statement requested from the applicant are consistent with the information requested from individuals who are applying for a medical position in VA.

The types of letters of reference that an applicant for the PREL would need to submit as part of the complete application package are specified in § 17.643(b). These letters of reference attest to the applicant's knowledge and expertise in the field of psychiatric medicine, and will assist VA in selecting the best qualified applicants.

New § 17.643(c) states what constitutes a personal statement. The personal statement provides VA with the applicant's employment history, training, accomplishments, clinical areas of interest, as well as the reasons why the applicant would like to be employed in VA. The personal statement will help VA assess the applicant's strengths, which will assist in job placement within VA. We also request attestation that the applicant is not participating in any other loan payment program. The Clay Hunt SAV Act specifically excludes individuals from participating in the program if they are participating in any other program of the Federal Government that repays educational loans. The applicant must submit a summary of his or her educational debt, including the total amount of the debt, when the debt was acquired, and the name of the lending agency that provided the loan. New § 17.643(c) states that the loan must be specific to education that was required, used, and qualified the applicant for appointment as a psychiatrist. VA understands that there is a high cost associated with attending medical school and this program will ease the financial burden of the applicants. Lastly, the personal statement must include a full curriculum vitae of the applicant. The information that is requested from the applicants as part of their personal statement is the same information that VA requests from applicants of the EDRP program.

17.644 Selection of Participants

New § 17.644 establishes the selection criteria for applicants to the PREL. VA has an increasing need for qualified physicians who are certified in the field of psychiatry. As such, VA wants to make certain that the applicants who are selected for the PREL are highly qualified in their field as well as demonstrate a long term commitment to employment in VA. The selection criteria in § 17.644(a) is consistent with the selection criteria for physicians seeking employment in VA. VA will try to appoint participants of the PREL to the location desired by the participant and suited to the participant's personal goals; however, VA reserves the right to appoint a participant to a VA medical facility with the greatest need for additional staff psychiatrists. The selection criteria will also include meeting all of the eligibility criteria in § 17.642, strong references from peers and faculty supervisors, and good to excellent standing in the residency program, as determined from the Program Director letter. The participant must not have any identifiable past issues that will adversely affect the participant's credentialing process. If the participant is unable to be credentialed by VA, the participant will fail to comply with terms and conditions of participation in the PREL. The documentation provided by the participant under § 17.642 will alert VA of any past issues before the participant is selected and will enable VA to select a participant who would be better suited for VA's needs.

The Clay Hunt SAV Act establishes a minimum number of individuals who VA would select for each year that VA carries out the PREL. New § 17.644(b) includes this requirement by stating that VA will select not less than ten individuals to participate in the program for each year that VA carries out the program.

New § 17.644(c) states that "VA will notify applicants that they have been selected in writing." Even though the participant may still be completing his or her residency requirement, we state that the applicant "becomes a participant in the program once the participant submits and VA signs the acceptance of conditions." This will ensure the participant's commitment to the program.

17.645 Award Procedures

The Clay Hunt SAV Act establishes a maximum annual amount that VA may pay to a participant of the PREL. Public Law 114–2, sec. 4(e)(2). VA may pay no more than $30,000 in educational loan repayment for each year of obligated service. This payment restriction is stated in § 17.645(a)(1). New § 17.645(a)(2) further limits the amount paid to the participant by stating that "[a]n educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans." VA will add this restriction to alert the participant that once the loan has been repaid, VA will not issue further payments on this loan. VA reserves the right to issue payment in the manner that is most beneficial to VA. We are, therefore, stating in § 17.645(b) that VA will issue payments to the applicant or to the "lending institution, on behalf of the participant, for the principal and interest on approved loans." We are also stating that the payments will be issued on a monthly or annual basis for each applicable service period depending on the terms of the acceptance of conditions. In order to verify that the participant is properly allocating the funds awarded to him or her, VA will require that the participant provide documentation that shows the amounts that were paid or were credited to reduce the principal and interest on the participant's educational loans during an obligated service period. The PREL is an incentive for recruitment of individuals whose education leads to a degree of doctor of medicine or doctor of osteopathy with a certification in psychiatry. As such, we state that payments issued to the participant for the PREL are exempt from Federal taxation.

17.646 Obligated Service

New § 17.646 provides the requirements for the obligated service for the PREL. New § 17.646(a) states that "[a] participant's obligated service will begin on the date on which the participant begins full-time, permanent employment with VA in the field of psychiatric medicine in a location determined by VA." We further add that the "obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment." VA needs to establish a commencement date for the participant's obligated service in the event that there is a breach in the service agreement. The Clay Hunt SAV Act states that a participant of the PREL must serve for a period of two or more calendar years. This requirement is stated in § 17.646(b). In order to make the best use of available resources, VA reserves the right to make the final decision on where the participant is assigned to complete his or her obligated service. VA will make every effort to take into consideration the participant's preference; however, if there is no immediate need for a clinical employee in psychiatric medicine in the participant's preferred location, VA will assign the participant to a VA medical facility that is in need of the participant's field of expertise. This requirement is stated in § 17.646(c).

17.647 Failure To Comply With Terms and Conditions of Participation

If a participant fails to commence or complete his or her period of obligated service, such participant is found in breach of the obligated service agreement. Section 4(f) of the Clay Hunt SAV Act provides a liability clause in case of a breach in the participant's obligated service. We will state the participant's liability in § 17.647(a). The amount that a participant would be liable to the United States would be "the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days." Each participant will have a multi-year service agreement. VA interprets this provision to mean that in the event of a breach, at whatever point that breach occurs during the participants' commitment to the program, a participant will be liable to VA for the entire amount that was payable to the participant during the period to which they have committed to the program, minus the prorated amount for the service the participant rendered. VA believes the PREL's authority is intended to allow VA to collect the full amount of loan payments payable to the participant over the entire term of the individual's service agreement, in a proportion that adequately represents the harm to the agency of being without one of these practitioners for the period of the breach. Participants who fail to begin or complete their obligation will become liable to the United States for the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days for any service year initiated but not completed, and $30,000 or the yearly amount agreed to in the acceptance of conditions for any full service year agreed to but not initiated.

The intent of the Clay Hunt SAV Act is to increase the pool of qualified psychiatrists in VA and the participant's liability will deter a participant from leaving VA employment or, alternatively, will ensure that VA has authority to recover damages. New § 17.647(b) establishes the repayment period for the amount of damages due to the United States. We state that the participant will be required to repay the amount of damages owed no later than one year after the date of the breach of the acceptance of conditions.

Administrative Procedure Act

This final rule prescribes regulations that govern VA employment and are, therefore, exempt from the notice-and-comment requirements of the Administrative Procedure Act under 5 U.S.C. 553(a)(2).

In addition, we note that the number of veterans receiving VA mental health care has greatly increased in the past years. VA provided mental health treatment to more than 1.6 million Veterans in FY 2015. Between FY 2005 and 2015, the number of Veterans who received mental health care from VA grew by 80 percent from ~.9M to ~1.6M. In 2005, 19% of VA users received mental health services, in 2015, the figure was 28%. VA Mental Health Care Fact Sheet July, 8, 2016. This increase is due to improved screening, awareness, and understanding of post-traumatic stress disorder, as well as other mental health disorders. Without qualified psychiatrists to assist veterans in overcoming mental health disorders, this number could increase in the coming years. Veterans have voiced their concerns regarding the lack of qualified mental health specialists within VA, a deficiency that has increased the wait time for VA mental health care. VA Mental Health Care Fact Sheet July, 8, 2016. According to the VA Office of Mental Health Services, VA currently tracks the average number of days from the Veteran's preferred appointment date to the completed appointment date for both new and established patients in mental health treatment. On average, new patients currently have a 4.6-day wait for an appointment and established patients have a 3-day wait. Overall, appointment wait times increased gradually from approximately 2 days at the beginning of FY 2014 to about 3 days in FY 2015 and into FY 2016.

This rulemaking will increase the pool of qualified VA psychiatrists, which will greatly alleviate the shortage of mental health physicians. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date.

The Secretary finds good cause to issue this rule as a final rule.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule includes a provision constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review. OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed § 17.643 contains a collection of information under the Paperwork Reduction Act of 1995. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We have requested that OMB approve the collection of information on an emergency basis, for up to a maximum of 180 days. If OMB does not approve the collection of information as requested, we will immediately remove § 17.643 or take such other action as is directed by OMB.

We are also seeking an approval of the information collection on a nonemergency basis, to authorize the collection of information after the 180 day maximum emergency approval period, by requesting comments on the collection of information provisions contained in § 17.643. Comments must be submitted by November 28, 2016. Comments on the collection of information contained in this final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to "RIN 2900–AP57 Repayment by VA of Educational Loans for Certain Psychiatrists."

OMB is required to make a decision concerning the collections of information contained in this final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VA considers comments by the public on collections of information in—

- Evaluating whether the collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The collections of information contained in § 17.643 are described immediately following this paragraph, under their respective titles.

Title: Repayment by VA of Educational Loans for Certain Psychiatrists.

Summary of collection of information: The information required determines the eligibility or suitability of an applicant desiring to participate in the PREL under the provisions of 38 U.S.C. 7681 Note. The purpose of the PREL would be to repay educational loans to individuals who pursued a program of study leading to a degree in psychiatric medicine and who are seeking employment in VA. VA considers this program as a hiring incentive for physicians with a degree in psychiatric medicine, which will help alleviate the shortage of mental health specialists in VA.

Description of the need for information and proposed use of information: The information is needed to apply for the PREL. VA will use this information to select qualified candidates to participate in this program.

Description of likely respondents: Potential participants of the PREL.

Estimated number of respondents per month/year: 100 per year.

Estimated frequency of responses per month/year: 1 per year.

Estimated average burden per response: 8 hours per year.

Estimated total annual reporting and recordkeeping burden: 800 hours per year.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined to be a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/*, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert D. Snyder, Chief of Staff, Department of Veterans Affairs, approved this document on May 23, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: May 23, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

Editorial note: This document was received at the Office of the Federal Register on September 23, 2016.

For the reasons set out in the preamble, VA is amending 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

Sections 17.640 and 17.647 also issued under Pub. L. 114–2, sec. 4.

Sections 17.641 through 17.646 also issued under 38 U.S.C. 501(a) and Pub. L. 114–2, sec. 4.

■ 2. Add an undesignated center heading immediately following § 17.636 and new §§ 17.640 through 17.647 to read as follows:

Sec.

Program for Repayment of Educational Loans for Certain VA Psychiatrists

17.640 Purpose.
17.641 Definitions.
17.642 Eligibility.
17.643 Application for the program for the repayment of educational loans.
17.644 Selection of participants.
17.645 Award procedures.
17.646 Obligated service.
17.647 Failure to comply with terms and conditions of participation.

Program for Repayment of Educational Loans for Certain VA Psychiatrists

§ 17.640 Purpose.

The purpose of §§ 17.640 through 17.647 is to establish the requirements for the program for the repayment of educational loans (PREL) obtained by physician residents pursuing a certification in psychiatry.

§ 17.641 Definitions.

The following definitions apply to §§ 17.640 through 17.647.

Acceptance of conditions means a signed document between VA and a participant of the PREL, in which the participant must agree to a period of obligated service, to maintain an acceptable level of performance determined by supervisory review in the position to which VA appoints the participant, to terms and amount of payment, and to relocate, if required, to a location determined by VA at the participant's expense in exchange for educational loan repayments under the PREL. VA will provide a list of available locations for the period of obligated service in the acceptance of conditions. The applicant will choose the preferred location, in ranking order, for the completion of his or her obligated service from the locations on this list. However, VA will ultimately make the final determination as to where the applicant will perform his or her period of obligated service. A participant of the PREL must agree that he or she is willing to accept the location and position to which VA appoints the participant.

Educational loan means a loan, government or commercial, made for educational purposes by institutions that are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the state in which the lender has its principal place of business. Loans must be for the actual costs paid for tuition, and other reasonable educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses. Loans must be obtained from a government entity, a private financial institution, a school, or any other authorized entity stated in this definition. The following loans do not qualify for the PREL:

(1) Loans obtained from family members, relatives, or friends;

(2) Loans made prior to, or after, the individual's qualifying education;

(3) Any portion of a consolidated loan that is not specifically identified with the education and purposes for which the PREL may be authorized, such as home or auto loans merged with educational loans;

(4) Loans for which an individual incurred a service obligation for repayment or agreed to service for future cancellation;

(5) Credit card debt;

(6) Parent Plus Loans;

(7) Loans that have been paid in full;

(8) Loans that are in default, delinquent, not in a current payment status, or have been assumed by a collection agency;

(9) Loans not obtained from a bank, credit union, savings and loan association, not-for-profit organization, insurance company, school, and other financial or credit institution which is subject to examination and supervision in its capacity as a lending institution by an agency of the United States or of the state in which the lender has its principal place of business;

(10) Loans for which supporting documentation is not available;

(11) Loans that have been consolidated with loans of other individuals, such as spouses, children, friends, or other family member; or

(12) Home equity loans or other non-educational loans.

PREL means the program for the repayment of educational loans for certain VA psychiatrists established in §§ 17.640 through 17.647.

§ 17.642 Eligibility.

(a) *General.* To be eligible for the PREL, an applicant must meet all of the following requirements:

(1) Be a U.S. citizen or permanent resident.

(2) Be enrolled in the final year of a post-graduate physician residency program leading to either a specialty qualification in psychiatric medicine or a subspecialty qualification of psychiatry (the program must be accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and, by the time of VA employment, must:

(i) Have completed all psychiatry residency training;

(ii) Have received a completion certificate from the Program Director confirming successful completion of the residency program; and

(iii) Certify intention to apply for board certification in the specialty of psychiatry (through the American Board of Medical Specialties or the American Osteopathic Association) within two years after completion of residency.

(3) Be licensed or eligible for licensure to practice medicine by meeting the following requirements by the time of VA employment:

(i) Have at least one full, active, current, and unrestricted license that authorizes the licensee to practice in any State, Territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(ii) Document graduation from a school of medicine accredited by the Liaison Committee on Medical Education or the American Osteopathic Association; or, if an international medical graduate, verify that requirements for certification by the Educational Commission for Foreign Medical Graduates have been met.

(b) Simultaneous participation in another repayment program. Any applicant who, at the time of application, is participating in any other program of the Federal Government that repays the educational loans of the applicant is not eligible to participate in the PREL.

§ 17.643 Application for the PREL.

(a) *General.* A complete application for the PREL consists of a completed application form, letters of reference, and personal statement.

(b) *References.* The applicant must provide the following letters of reference and sign a release of information form for VA to contact such references. The letters of reference should include the following:

(1) One letter of reference from the Program Director of the core psychiatry program in which the applicant trained or is training, or the Program Director of any psychiatry subspecialty program in which the applicant is training, which indicates that the applicant is in good to excellent standing;

(2) One or more letters of reference from faculty members under which the applicant trained;

(3) One letter of reference from a peer colleague who is familiar with the psychiatry practice and character of the applicant.

(c) *Personal statement.* The personal statement must include the following documentation:

(1) A cover letter that provides the following information:

(i) Why the applicant is interested in VA employment;

(ii) The applicant's interest in working at a particular VA medical facility;

(iii) Likely career goals, including career goals in VA; and

(iv) A brief summary of past employment or training and accomplishments, including any particular clinical areas of interest (*e.g.*, substance abuse).

(2) The following information must be provided on a VA form or online collection system and is subject to VA verification:

(i) Attestation that the applicant is not participating in any other loan repayment program.

(ii) A summary of the applicant's educational debt, which includes the total debt amount and when the debt was acquired. The health professional debt covered the loan must be specific to education that was required, used, and qualified the applicant for appointment as a psychiatrist.

(ii) The name of the lending agency that provided the educational loan.

(3) A full curriculum vitae.

§ 17.644 Selection of participants.

(a) *Selection criteria.* In evaluating and selecting participants, VA will consider the following factors:

(1) The applicant meets all of the eligibility criteria in § 17.642 and has submitted a complete application under § 17.643;

(2) The strength of the applicant's letters of reference;

(4) The applicant is in good to excellent standing in the residency program, as determined from the Program Director letter of reference;

(5) The applicant demonstrates a strong commitment to VA's mission and core values;

(6) The applicant has personal career goals that match VA needs (*i.e.*, to work with patients suffering from traumatic brain injury, substance abuse, or post-traumatic stress disorder);

(7) The applicant's expresses a desire to work at a location that matches with VA needs; and

(8) The applicant does not have any identifiable circumstances relating to education, training, licensure, certification and review of health status, previous experience, clinical privileges, professional references, malpractice history and adverse actions, or criminal violations that would adversely affect the applicant's credentialing process.

(b) *Selection.* VA will select not less than 10 individuals who meet the requirements of this section to participate in the program for the repayment of educational loans for each year in which VA carries out the program.

(c) *Notification of selection.* VA will notify applicants that they have been selected in writing. An individual becomes a participant in the PREL once the participant submits and VA signs the acceptance of conditions.

§ 17.645 Award procedures.

(a) *Repayment amount.* (1) VA may pay not more than $30,000 in educational loan repayment for each year of obligated service.

(2) An educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans.

(b) *Payment.* VA will pay the participant, or the lending institution on behalf of the participant, directly for the principal and interest on the participant's educational loans. Payments will be made monthly or annually for each applicable service period, depending on the terms of the acceptance of conditions. Participants must provide VA documentation that shows the amounts that were credited or posted by the lending institution to a participant's educational loan during an obligated service period. VA will issue payments after the participant commences the period of obligated service. Payments are exempt from Federal taxation.

§ 17.646 Obligated service.

(a) *General provision.* A participant's obligated service will begin on the date on which the participant begins full-time, permanent employment with VA in the field of psychiatric medicine in a location determined by VA. Obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment.

(b) *Duration of service.* The participant will agree in the acceptance of conditions to serve for an obligated service period of 2 or more calendar years.

(c) *Location and position of obligated service.* VA reserves the right to make final decisions on the location and position of the obligated service.

§ 17.647 Failure to comply with terms and conditions of participation.

(a) *Participant fails to satisfy obligated service.* A participant of the PREL who fails to satisfy the period of obligated service will be liable to the United States, in lieu of such obligated service, for the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days.

(b) *Repayment period.* The participant will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than 1 year after the date of the breach of the agreement.

[FR Doc. 2016–23360 Filed 9–28–16; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 20

International Mail Manual; Incorporation by Reference

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service announces the issuance of the *Mailing Standards of the United States Postal Service, International Mail Manual* (IMM®) dated July 11, 2016, and its incorporation by reference in the *Code of Federal Regulations.*

DATES: This final rule is effective on September 29, 2016. The incorporation by reference of the IMM is approved by the Director of the Federal Register as of September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Lizbeth Dobbins, (202) 268–3789.

SUPPLEMENTARY INFORMATION: The *International Mail Manual* was issued on July 11, 2016, and was updated with

Postal Bulletin revisions through June 23, 2016. It replaced all previous editions. The IMM continues to enable the Postal Service to fulfill its long-standing mission of providing affordable, universal mail service. It continues to: (1) Increase the user's ability to find information; (2) increase the user's confidence that they have found the information they need; and (3) reduce the need to consult multiple sources to locate necessary information. The provisions throughout this issue support the standards and mail preparation changes implemented since the version of January 25, 2015. The *International Mail Manual* is available to the public on the Postal Explorer® Internet site at *http://pe.usps.com.*

List of Subjects in 39 CFR Part 20

Foreign relations; Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR part 20 as follows:

PART 20—INTERNATIONAL POSTAL SERVICE

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Amend § 20.1 by revising paragraph (a), revising the introductory text of the table in paragraph (b), and adding a new entry at the end of the table, to read as follows:

§ 20.1 International Mail Manual; incorporation by reference.

(a) Section 552(a) of title 5, U.S.C., relating to the public information requirements of the Administrative Procedure Act, provides in pertinent part that matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register. In conformity with that provision and 39 U.S.C. 410(b)(1), and as provided in this part, the Postal Service hereby incorporates by reference its *International Mail Manual* (IMM), issued July 11, 2016. The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) The current Issue of the IMM is incorporated by reference in paragraph (a) of this section. Successive Issues of the IMM are listed in Table 1:

TABLE 1 TO PARAGRAPH (b)

International Mail Manual	Date of issuance
* * *	* *
IMM	July 11, 2016.

■ 3. Revise § 20.2 to read as follows:

§ 20.2 Effective date of the International Mail Manual.

The provisions of the *International Mail Manual* issued July 11, 2016, are applicable with respect to the international mail services of the Postal Service.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–23334 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Incorporation by Reference

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service announces the issuance of the *Mailing Standards of the United States Postal Service, Domestic Mail Manual* (DMM®) dated July 11, 2016, and its incorporation by reference in the *Code of Federal Regulations.*

DATES: This final rule is effective on September 29, 2016. The incorporation by reference of the DMM dated July 11, 2016, is approved by the Director of the Federal Register as of September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Lizbeth Dobbins (202) 268–3789.

SUPPLEMENTARY INFORMATION: The most recent issue of the *Domestic Mail Manual* (DMM) is dated July 11, 2016. This issue of the DMM contains all Postal Service domestic mailing standards, and continues to: (1) Increase the user's ability to find information; (2) increase confidence that users have found all the information they need; and (3) reduce the need to consult multiple chapters of the Manual to locate necessary information. The issue dated July 11, 2016, sets forth specific changes, including new standards throughout the DMM to support the standards and mail preparation changes implemented since the version issued on January 25, 2015.

Changes to mailing standards will continue to be published through **Federal Register** notices and the *Postal Bulletin,* and will appear in the next online version available via the Postal Explorer® Web site at: *http://pe.usps.com.*

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Incorporation by reference.

In view of the considerations discussed above, the Postal Service hereby amends 39 CFR part 111 as follows:

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. In § 111.3 amend paragraph (f) by revising the last entry in the table and adding a new entry at the end of the table to read as follows:

§ 111.3 Amendment to the Mailing Standards of the United States Postal Service, Domestic Mail Manual.

* * * * *

(f) * * *

Transmittal letter for issue	Dated	**Federal Register** publication
* *	* *	* * *
DMM 300	January 25, 2015	80 FR 13492 [INSERT FR CITATION FOR THIS RULE].
DMM 300	July 11, 2016.	

§ 111.4 [Amended]

■ 3. Amend § 111.4 by removing "July 31, 2012" and adding "September 29, 2016".

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–23335 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2016–0408; FRL–9953–20–OAR]

RIN 2060–AS89

Technical Correction to the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because the Environmental Protection Agency (EPA) received adverse comment, we are withdrawing the direct final rule titled, "Technical Correction to the National Ambient Air Quality Standards for Particulate Matter," published on August 11, 2016.

DATES: Effective September 29, 2016, the EPA withdraws the direct final rule published at 81 FR 53006 on August 11, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Brett Gantt, Air Quality Assessment Division, Office of Air Quality Planning and Standards (Mail Code: C304–04), Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711, telephone number: 919–541–5274; fax number: 919–541–3613; email address: *gantt.brett@epa.gov.*

SUPPLEMENTARY INFORMATION: Because the EPA received adverse comment, we are withdrawing the direct final rule titled, "Technical Correction to the National Ambient Air Quality Standards for Particulate Matter," published on August 11, 2016 (81 FR 53006). We stated in that direct final rule that if we received adverse comment by September 12, 2016, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule. We will address those comments in a final action, which will be based on the parallel proposed rule also published on August 11, 2016 (81 FR 53097). As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

Dated: September 20, 2016.

Janet G. McCabe,
Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2016–23304 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0493: FRL–9953–04–Region 10]

Approval and Promulgation of Implementation Plans; Washington: General Regulations for Air Pollution Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In reviewing past State Implementation Plan (SIP) actions, the Washington Department of Ecology (Ecology) and the Environmental Protection Agency (EPA) discovered minor typographical errors related to the EPA's previous approvals of Chapter 173–400 Washington Administrative Code, *General Regulations for Air Pollution Sources.* The EPA is taking direct final action to correct these errors. This direct final action makes no substantive changes to the SIP and imposes no new requirements.

DATES: This rule is effective on November 28, 2016, without further notice, unless the EPA receives adverse comment by October 31, 2016. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2016–0493 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave, Suite 900, Seattle, WA 98101; telephone number: (206) 553–0256; email address: *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, it is intended to refer to the EPA.

I. Introduction

In final actions published October 3, 2014 (79 FR 59653) and April 29, 2015 (80 FR 23721), the EPA approved Washington Administrative Code (WAC) 173–400–110 *New Source Review (NSR) for Sources and Portable Sources* and WAC 173–400–112 *Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations* with certain exceptions. One of the listed exceptions was "the part of 400–110(4)(e)(f)(i)" related to toxic air pollutants. The EPA notes that "400–110(4)(e)(f)(i)" does not exist under Chapter 173–400 WAC. The correct citation is "400–110(4)(f)(i)." Similarly, both final approvals contained regulatory text under 40 CFR part 52.2470(c) which listed an exception for WAC 173–400–112(8). WAC 173–400–112(8) does not exist in the version of Chapter 173–400 WAC adopted by Ecology on November 28, 2012, which the EPA reviewed and approved. This exception, related to toxic air pollutants, was a holdover from a previous approval action (60 FR 28726, June 2, 1995). This exception was inadvertently copied as part of 40 CFR 52.2470(c) *Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction.* Both typographical errors were also inadvertently copied in the regulatory text of a November 17, 2015 final approval for the Benton Clean Air Agency, under 40 CFR 52.2470(c) *Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction,* which generally relies on the regulations contained in Chapter 173–400 WAC (80 FR 71695).

II. Final Action

The EPA has determined that the typographical errors referenced above should be corrected at this time. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on November 28, 2016 without further notice unless the EPA receives adverse comment by October 31, 2016. If the EPA receives adverse comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is correcting minor typographical errors related to the incorporation by reference contained in 40 CFR 52.2470(c) *Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction* and *Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction.* These materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 10 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

IV. Statutory and Executive Orders Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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[1] 62 FR 27968 (May 22, 1997).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting, and Recordkeeping requirements.

Dated: September 14, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

For the reasons stated above, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

■ 2. In § 52.2470, amend paragraph (c) by:

■ a. In Table 2—Additional Regulations Approved for Washington Department of Ecology (Ecology) Direct Jurisdiction, revising entries 173–400–110 and 173–400–112; and

■ b. In Table 4—Additional Regulations Approved for the Benton Clean Air Agency (BCAA) Jurisdiction, revising entries 173–400–110 and 173–400–112.

The revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 2—ADDITIONAL REGULATIONS APPROVED FOR WASHINGTON DEPARTMENT OF ECOLOGY (ECOLOGY) DIRECT JURISDICTION

[Applicable in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations (excluding non-trust land within the exterior boundaries of the Puyallup Indian Reservation), and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. These regulations also apply statewide for facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
*	*	*	*	*
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16 [Insert **Federal Register** citation].	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • "not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,"; The part of 400–110(4)(e)(iii) that says, • "where toxic air pollutants as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(f)(i) that says, • "that are not toxic air pollutants listed in chapter 173–460 WAC"; The part of 400–110(4)(h)(xviii) that says, • ", to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(h)(xxiii) that says, • "where no toxic air pollutants as listed under chapter 173–460 WAC are emitted"; The part of 400–110(4)(h)(xxxiv) that says, • ", or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; The part of 400–110(4)(h)(xxxv) that says, • "or ≤1% (by weight) toxic air pollutants"; The part of 400–110(4)(h)(xxxvi) that says, • "or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; 400–110(4)(h)(xl), second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
*	*	*	*	*
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16 [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

TABLE 4—ADDITIONAL REGULATIONS APPROVED FOR THE BENTON CLEAN AIR AGENCY (BCAA) JURISDICTION

[Applicable in Benton County, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction, Indian reservations and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and facilities subject to the applicability sections of WAC 173–400–700, 173–405–012, 173–410–012, and 173–415–012]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
* * * * * * *				
Washington Department of Ecology Regulations				
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
* * * * * * *				
173–400–110	New Source Review (NSR) for Sources and Portable Sources.	12/29/12	9/29/16 [Insert **Federal Register** citation].	Except: 173–400–110(1)(c)(ii)(C); 173–400–110(1)(e); 173–400–110(2)(d); The part of WAC 173–400–110(4)(b)(vi) that says, • "not for use with materials containing toxic air pollutants, as listed in chapter 173–460 WAC,"; The part of 400–110(4)(e)(iii) that says, • "where toxic air pollutants as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(f)(i) that says, • "that are not toxic air pollutants listed in chapter 173–460 WAC"; The part of 400–110(4)(h)(xviii) that says, • ", to the extent that toxic air pollutant gases as defined in chapter 173–460 WAC are not emitted"; The part of 400–110(4)(h)(xxxiii) that says, • "where no toxic air pollutants as listed under chapter 173–460 WAC are emitted"; The part of 400–110(4)(h)(xxxiv) that says, • ", or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; The part of 400–110(4)(h)(xxxv) that says, • "or ≤1% (by weight) toxic air pollutants"; The part of 400–110(4)(h)(xxxvi) that says, • "or ≤1% (by weight) toxic air pollutants as listed in chapter 173–460 WAC"; 400–110(4)(h)(xl), second sentence; The last row of the table in 173–400–110(5)(b) regarding exemption levels for Toxic Air Pollutants.
* * * * * * *				
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	9/29/16 [Insert FEDERAL REGISTER citation].	
* * * * * * *				

* * * * *

[FR Doc. 2016–23298 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0403; FRL–9953–05–Region 4]

Air Plan Approval; TN: Revisions to Logs and Reports for Startups, Shutdowns and Malfunctions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on September 25, 2013. The SIP submittal includes a change to the TDEC regulation "Logs and Reports." EPA is approving this SIP revision because it is consistent with the Clean Air Act (CAA

or Act) and federal regulations governing SIPs.

DATES: This rule will be effective October 31, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2015–0403. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached by telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving a revision to the Tennessee SIP submitted by TDEC on September 25, 2013. Specifically, the submittal includes a change to remove the existing text of subparagraph (2) from Tennessee Air Pollution Control Regulation (TAPCR) Rule 1200–3–20–.04, "Logs and Reports," and replace it with the word "Reserved." Subparagraph (2) provided that all sources located in or having a significant impact on a nonattainment area submit a quarterly report to the Technical Secretary of Tennessee's Air Pollution Control Board that: (1) Identifies periods of startups, shutdowns, and/or malfunctions (SSM events) that result in an exceedance of an emission limitation, (2) estimates the excess emissions released during such SSM events, and (3) provides total source emissions where such emissions are not otherwise required to be reported under Tennessee Air Pollution Control Regulations (TAPCR) Chapters 1200–3–10-.02 or 1200–3–16. EPA is approving Tennessee's September 25, 2013, SIP revision because the proposed revision is consistent with the requirements of the CAA and federal regulations governing SIPs. EPA received no comments on the July 27, 2016 (81 FR 49201), proposed rulemaking.

II. Background

A. Summary of the September 25, 2013, SIP Revision

The CAA and rules governing SIPs in 40 CFR part 51 require recordkeeping and reporting to ensure that sources are in compliance with enforceable emission limits. Paragraph (2) of TAPCR Rule 1200–3–20–.04 initially helped to satisfy these requirements by providing for quarterly reports of excess emissions during SSM events, as well as total quarterly emissions. Removing this paragraph eliminates a set of requirements covering all source types, including major sources; sources that restrain their "potential to emit" to a level that is below the major source applicability threshold through the use of emissions control, restriction on hours of operation, or other means ("synthetic minor source"); and those sources for which potential emissions are below the major source thresholds, even assuming no emission controls and unlimited hours of operation ("true minor sources"). Tennessee's September 25, 2013, SIP submittal demonstrates that CAA requirements for recordkeeping and reporting will continue to be met, as applicable, considering other federal and state regulations.

Major sources in Tennessee are subject to title V of the CAA at 40 CFR part 70. This requires: (1) Sources to submit reports of any required monitoring at least every six months at 40 CFR 70.6(a)(3)(iii)(A), including all instances of deviations from permit requirements; (2) an annual compliance certification at 40 CFR 70.6(c)(5); and (3) prompt reporting of deviations from permit requirements at 40 CFR 70.6(a)(3)(iii)(B). TDEC has adopted these requirements into its federally-approved title V operating permits program at TAPCR Rule 1200–3–9–.02(11)(e)1(iii)(III)I, 1200–3–9–.02(11)(e)3(v), and 1200–3–9–.02(11)(e)1(iii)(III)II, respectively.

In addition to the title V reporting requirements, Tennessee's SIP authorizes the Tennessee Air Pollution Control Board's Technical Secretary to require enhanced reporting as needed to verify that a "major stationary source" is operating in compliance with applicable requirements. *See* TAPCR Chapter 1200–3–10–.04(2). Likewise, Tennessee's SIP at TAPCR Rule 1200–3–10–.02, "Monitoring of Source Emissions, Recording, Reporting of the Same are Required," at paragraph (1)(a) states: "The Technical Secretary may require the owner or operator of any air contaminant source discharging air contaminants . . . to . . . make periodic emission reports as required in paragraph (2)." Paragraph (2)(a) clarifies that "[r]ecords and reports as the Technical Secretary shall prescribe," must be collected and submitted. Finally, TAPCR Rule 1200–3–20–.08, "Special Reports Required," states that the Technical Secretary "may require any air contaminant source to submit a report within thirty (30) days after the end of each calendar quarter" containing dates and details of any SSM events and resultant emissions in excess of applicable limitations. Thus, the SIP contains provisions that allow TDEC to collect reports similar to those in TAPCR 1200–3–20–.04(2) when deemed necessary to determine a source's compliance with applicable requirements. TAPCR 1200–3–20–.04(1), requiring sources to collect and maintain records regarding SSM events and resultant excess emissions, also remains in effect.

Regarding total emissions, the State is also required to report to EPA triennial reports of annual (12-month) emissions for all sources and every-year reports of annual emissions of criteria air pollutants and their precursors for all major sources as well as annual emissions reporting from certain larger sources. *See* subpart A to 40 CFR part 51, the "Air Emissions Reporting Requirements," or "AERR." Further details are provided in the July 27, 2016, proposed rule.

Synthetic minor sources, in accordance with SIP-approved TAPCR 1200–3–9–.02(11)(a), are subject to an enforceable limit restricting potential to emit and must implement "detailed monitoring, reporting and recordkeeping requirements that prove the source is abiding by its more restrictive emission and/or production limits." TDEC's synthetic minor permits require: (1) Prompt reporting of any non-compliance with permit conditions designed to restrict "potential to emit" below the major source level (the "synthetic minor limit"), (2) submission of an annual compliance certification supported by records documenting the facility's compliance with its synthetic minor limit, and (3) reporting of excess emissions due to malfunctions in accordance with TAPCR Chapter 1200–3–20–.03. Thus, Tennessee can determine compliance with the applicable permit conditions for synthetic minor sources.

Reserving paragraph TAPCR 1200–3–20–.04(2) eliminates the requirement that true minor sources report excess emissions and total emissions to the State. There is no general federal requirement for true minor sources to directly report their emissions to the state or to EPA. The State explains in its submittal that true minor sources were never intended to be required to make these types of reports, but that the regulated community has expanded to include many smaller sources since the Rule's adoption in the TAPCR in 1979. Total emissions from true minor sources are still considered, either in aggregate or via specific reporting. True minor sources with emissions of oxides of nitrogen or volatile organic compounds above 25 tons per year (tpy) report total emissions annually to the State in ozone nonattainment areas, pursuant to TAPCR 1200–3–18–.02(8). Additionally, the AERR requires the state to report emissions from sources at lower thresholds for select criteria air pollutants or precursors in certain nonattainment areas, which may include true minor sources. The AERR also provides for reporting of lead emissions greater than or equal to 0.5 tpy, regardless of an area's attainment status with respect to the lead NAAQS. Otherwise, emissions from true minor sources are reported to EPA in aggregate in accordance with the AERR. Finally, Tennessee noted the Technical Secretary's authority under 1200–3–10–.02(1)(a) to collect reports from "any air contaminant source." TDEC explains that if there were a reason to think a true minor source was impacting air quality standards, the Division of Air Pollution Control could collect these reports of emissions.

The combination of federal reporting requirements, reporting requirements under Tennessee's SIP, and Tennessee's authority to request additional information on source emissions when necessary, provide that Tennessee's September 25, 2013, SIP revision does not impair Tennessee's ability to determine the nature and amount of emissions from both major and minor sources and whether such sources are operating in compliance with Tennessee's SIP. Accordingly, EPA's final approval of Tennessee's September 25, 2013, SIP revision is consistent with the minimum SIP requirements pertaining to enforceability and emissions reporting. For more information, see the July 27, 2016, proposed rule (81 FR 49201). EPA received no comments on the proposed rulemaking.

B. SSM SIP Call Considerations

In this action, EPA is not approving or disapproving revisions to any existing emission limitations that apply during SSM events. EPA notes that on June 12, 2015 (80 FR 33840), the Agency published a formal finding that a number of states have SIPs with SSM provisions that are contrary to the CAA and existing EPA guidance. Accordingly, EPA issued a formal "SIP call" requiring the affected states to make a SIP submission to correct the deficient SSM regulations. *Id.* In that final action, EPA determined that TAPCR Chapter 1200–3–20 has provisions that are contrary to the CAA, specifically paragraph (1) of Rule 1200–3–20–.07, "Report Required upon the Issuance of Notice of Violation." This final action only deals with the deletion of a separate reporting requirement which is reasonably covered by other requirements, and does not impact the provision of the Tennessee Rule implicated in the SSM SIP call, this proposed action does not contradict the finding of inadequacy regarding TAPCR 1200–3–20–.07(1).

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of TAPCR 1200–3–20–.04, entitled "Logs and Reports," effective June 19, 2013, which removed a quarterly reporting requirement for total emissions and for excess emissions during SSM. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Final Action

EPA is taking final action to approve the September 25, 2013, Tennessee SIP revision. This final approval includes the section 110(l) demonstration that modifying the SIP to remove TAPCR 1200–3–20–.04(2) will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA, and the demonstration that the SIP revision is consistent with section 193 of the Act because it does not address any emissions reduction or emissions control requirement and will have no effect on the emissions of any air pollutant.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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[1] 62 FR 27968 (May 22, 1997).

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: September 15, 2016.

Kenneth R. Lapierre,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

■ 2. In § 52.2220, table 1 in paragraph (c) is amended by revising the entry for "Section 1200–3–20–.04" to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 1200–3–20 Limits on Emissions Due to Malfunctions, Start-Ups, and Shutdowns				
*	*	*	*	*
Section 1200–3–20–.04	Logs and reports	6/19/2013	9/29/2016, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2016–23302 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–9999]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies a community where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that is scheduled for suspension on the effective date listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/national-flood-program-community-status-book.*

DATES: The effective date of the community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the community will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that this community may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. This community will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA published a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in this community. The date of the FIRM is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the community listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because the community listed in this final rule has been adequately notified. In accordance with 44 CFR 59.24(d), the community received a 30-day notification letter addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded per the requirements of FEMA Instruction 108–1–1 and DHS Instruction 023–01–001–01. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the community unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SHFAs
Region III				
Virginia: Louisa County, Unincorporated Areas.	510092	March 1, 1972; Emergency; June 1, 1989; Reg; October 31, 2016; Susp.	November 5, 1997.	October 31, 2016.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: September 16, 2016.

Michael M. Grimm,

Assistant Administrator for Mitigation, Federal Insurance Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2016–23459 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[PS Docket No. 13–87; PS Docket No. 06–229, WT Docket No. 96–86, RM–11433 and RM- 11577, FCC 16–111]

Service Rules Governing Narrowband Operations in the 769–775/799–805 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Order on Reconsideration, the Federal Communications Commission (Commission) provides more flexibility to radio equipment manufacturers interested in the marketing and sale of 700 MHz equipment to public safety agencies by revising the Commission's rules and providing more time for interoperability testing of equipment designed to operate on the 700 MHz narrowband interoperability channels.

The Commission balances the needs of manufacturers for flexibility with public safety's need for verified interoperable communications during emergencies. The Commission also provides guidance to states that wish to delegate administration of certain 700 MHz narrowband channels and corrects certain rules governing public safety spectrum.

DATES: Effective September 29, 2016, except for §§ 2.1033(c)(20) and 90.548(c), containing new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, which will become effective after such approval, on the effective date specified in a notification that the Commission will publish in the **Federal Register** announcing such approval and effective date.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–0848 or *john.evanoff@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in PS Docket No. 13–87, FCC 16–111, released on August 22, 2016. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

In 2014, the Commission adopted a Report and Order in the captioned proceeding, which, *inter alia,* provided that mobile and portable 700 MHz public safety band radios designed to operate on the 700 MHz interoperability channels would be presumed interoperable if they received Project 25 Compliance Acceptance Program (CAP) approval (hereinafter referred to as P25 CAP), 79 FR 71321 (Dec. 2, 2014). In the alternative, manufacturers could accompany their equipment certification applications with other documentation demonstrating how the radio submitted for certification complied with Project 25 standards and was interoperable across vendors. The Telecommunications Industry Association (TIA) filed a timely petition for reconsideration of the Report and Order, 80 FR 4239 (Jan. 27, 2015).

In this Order on Reconsideration, the Commission grants the Petition in part and modifies those rules to provide greater flexibility to manufacturers considering the marketing and sale of equipment to public safety. In particular, this Order on Reconsideration allows CAP compliance or the equivalent to be demonstrated after equipment certification but prior to the marketing or sale of that equipment. Thereby manufacturers may obtain FCC equipment authorization for equipment designed to operate on the 700 MHz narrowband interoperability channels before obtaining P–25 CAP approval or the equivalent. P–25 CAP approval, or the equivalent, however, must be obtained before equipment is marketed or sold, thus mitigating the risk to public safety, including state and local governmental entities, that equipment purchased may not be interoperable across vendors. Lack of interoperability can severely compromise public safety agencies' response to emergencies. The Commission concludes that CAP compliance or the equivalent completed before the marketing or sale of equipment to public safety mitigates the risk of lack of interoperability while accommodating the needs of manufacturers for flexibility in the equipment certification and P–25 CAP, or equivalent, processes. For these reasons, the Commission modifies Sections 2.1033(c)(20) and 90.548(c) of the rules.

Separately, in response to a request for clarification filed by the National Regional Planning Council (NRPC), the Commission clarifies that states may delegate administration of the 700 MHz air-ground channels to the 700 MHz Regional Planning Committees (RPCs). The Commission also amends Section 90.535 of the Commission's rules to reflect its previous decision to eliminate the 700 MHz narrowbanding deadline. Additionally, the Commission corrects Sections 90.209 and 90.210 of the Commission's technical rules to accurately reflect bandwidth limitations and emission masks. Finally, the Commission conforms Sections 90.523(a)–(d) to the introductory sentence of Section 90.523, to reflect the restriction of the public safety narrowband spectrum bands to 769–775/799–805 MHz, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).

Procedural Matters

A. Supplemental Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the U.S. Small Business Administration (SBA). Pursuant to the RFA, a Final Regulatory Flexibility Analysis ("FRFA") was incorporated into the Report and Order.

This Order on Reconsideration amends the rules adopted in the Report and Order in this proceeding to provide manufacturers with greater flexibility in the equipment authorization process. Those rules required demonstration of Project 25 compliance (through CAP or otherwise) at the time of the filing of the equipment authorization application, when certain aspects of CAP compliance may be more difficult to demonstrate (*e.g.,* the lack of availability of product versions needed for interoperability testing). Instead, the Order on Reconsideration requires CAP certification (or other demonstration of Project 25 compliance) before radios may be marketed or sold. This change preserves public safety interoperability goals while providing manufacturers with needed additional flexibility.

This Order on Reconsideration also clarifies that States may delegate the administration of the 700 MHz air-ground channels to 700 MHz Regional Planning Committees; amends Section 90.523 of the rules to accurately reflect the 700 MHz narrowband public safety bands; and amends Section 90.535 of the rules to implement the Commission's decision to eliminate the 700 MHz narrowbanding mandate. Finally, the Order on Reconsideration corrects Sections 90.209 and 90.210 of the Commission's technical rules to accurately reflect the correct bandwidth limitations and emission masks.

B. Paperwork Reduction Act of 1995 Analysis

The Order on Reconsideration contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding.

C. Congressional Review Act

The Commission will send a copy of this Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

D. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to Sections 1, 4(i), 303, 316, 332, 337, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 316, 332, 337, 405, this Order on Reconsideration *is hereby adopted.*

It is ordered pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 405, and Section 1.429 of the Commission's rules, 47 CFR 1.429, that the Petition for Reconsideration filed by the Telecommunications Industries Association on January 2, 2015, IS GRANTED to the extent discussed herein.

It is further ordered that Sections 2.1033(c)(20), 90.209, 90.210, 90.523, 90.535(d) and 90.548(c) of the Commission's rules are AMENDED. The amendments to Sections 2.1033(c)(20) and 90.548(c) require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and shall become effective after the Commission publishes a notification in the **Federal Register** announcing such approval and the relevant effective date. The amendments to Sections 90.209, 90.210, 90.523, and 90.535(d) shall become effective on publication of this Order on Reconsideration in the **Federal Register**.

It is further ordered, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 2 and 90 Radio.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer. Office of the Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 336, unless otherwise noted.

■ 2. Section 2.1033 is amended by revising paragraph (c)(20) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(c) * * *

(20) Before equipment operating under part 90 of this chapter and capable of operating on the 700 MHz interoperability channels (See § 90.531(b)(1) of this chapter) may be marketed or sold, the manufacturer thereof shall have a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, a document detailing how the manufacturer determined that its equipment complies with § 90.548 of this chapter and that the equipment is interoperable across vendors. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors before it is marketed or sold.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 3. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 4. Section 90.209 is amended in the table in paragraph (b)(5) by revising the entries for "406–512" and "809–824/854–869" to read as follows:

§ 90.209 Bandwidth limitations.

* * * * *

(b) * * *

(5) * * *

STANDARD CHANNEL SPACING/BANDWIDTH

Frequency band (MHz)	Channel spacing (kHz)	Authorized bandwidth (kHz)
* * *	*	*
406–512[2]	[1]6.25	[1,3,6]20/11.25/6
* * *	*	*
809–824/854–869	25	[6]20
* * *	*	*

[1] For stations authorized on or after August 18, 1995.

[2] Bandwidths for radiolocation stations in the 420–450 MHz band and for stations operating in bands subject to this footnote will be reviewed and authorized on a case-by-case basis.

[3] Operations using equipment designed to operate with a 25 kHz channel bandwidth will be authorized a 20 kHz bandwidth. Operations using equipment designed to operate with a 12.5 kHz channel bandwidth will be authorized a 11.25 kHz bandwidth. Operations using equipment designed to operate with a 6.25 kHz channel bandwidth will be authorized a 6 kHz bandwidth. All stations must operate on channels with a bandwidth of 12.5 kHz or less beginning January 1, 2013, unless the operations meet the efficiency standard of § 90.203(j)(3).

* * * * *

[6] Operations using equipment designed to operate with a 25 kHz channel bandwidth may be authorized up to a 22 kHz bandwidth if the equipment meets the Adjacent Channel Power limits of § 90.221.

* * * * *

■ 5. Section 90.210 is amended by revising paragraph (h)(5) to read as follows:

§ 90.210 Emission masks.

* * * * *

(h) * * *

(5) On any frequency removed from the center of the authorized bandwidth by more than 25 kHz: At least 43 + 10 log (P) dB.

* * * * *

■ 6. Section 90.523 is amended by revising paragraphs (a), (b) introductory text, (c), and (d) to read as follows:

§ 90.523 Eligibility.

* * * * *

(a) *State or local government entities.* Any territory, possession, state, city, county, town, or similar State or local governmental entity is eligible to hold authorizations in the 769–775 MHz and 799–805 MHz frequency bands.

(b) *Nongovernmental organizations.* A nongovernmental organization (NGO) that provides services, the sole or principal purpose of which is to protect the safety of life, health, or property, is eligible to hold an authorization for a system operating in the 769–775 MHz and 799–805 MHz frequency bands for transmission or reception of communications essential to providing such services if (and only for so long as) the NGO applicant/licensee:

* * * * *

(c) *All NGO authorizations are conditional.* NGOs assume all risks associated with operating under conditional authority. Authorizations issued to NGOs to operate systems in the 769–775 MHz and 799–805 MHz frequency bands include the following condition: If at any time the supporting governmental entity (see paragraph (b)(1) of this section) notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 769–775 MHz and 799–805 MHz frequency bands, the NGO's application shall be dismissed automatically or, if authorized by the Commission, the NGO's authorization shall terminate automatically.

(d) Paragraphs (a) and (b) of this section notwithstanding, no entity is eligible to hold an authorization for a system operating in the 769–775 MHz and 799–805 MHz frequency bands on the basis of services, the sole or principal purpose of which is to protect the safety of life, health or property, that such entity makes commercially available to the public.

* * * * *

■ 7. Section 90.535(d) is revised to read as follows:

§ 90.535 Modulation and spectrum usage efficiency requirements.

* * * * *

(d) Transmitters designed to operate on the channels listed in paragraphs (b)(2), (5), (6), and (7) of § 90.531 must be capable of operating in the voice mode at an efficiency of at least one voice path per 12.5 kHz of spectrum bandwidth.

■ 8. Section 90.548(c) is revised to read as follows:

§ 90.548 Interoperability Technical Standards.

* * * * *

(c) Transceivers capable of operating on the interoperability channels listed in § 90.531(b)(1) shall not be marketed or sold unless the transceiver has previously been certified for interoperability by the Compliance Assessment Program (CAP) administered by the U.S. Department of Homeland Security; provided, however, that this requirement is suspended if the CAP is discontinued. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors before it is marketed or sold. In the alternative, manufacturers may employ their own protocol for verifying compliance with Project 25 standards and determining that their product is interoperable among vendors. In the event that field experience reveals that a transceiver is not interoperable, the Commission may require the manufacturer thereof to provide evidence of compliance with this section.

[FR Doc. 2016–22432 Filed 9–28–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 543

[Docket No. NHTSA–2014–0007]

RIN 2127–AL08

Exemption From Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In this rulemaking action, NHTSA is finalizing procedures for obtaining an exemption from the vehicle theft prevention standard for vehicles equipped with immobilizers.

An immobilizer is an anti-theft device that combines microchip and transponder technology with engine and fuel immobilizer components that can prevent vehicles from starting unless a verified code is received by the transponder. This final rule streamlines the exemption procedure for immobilizer-equipped vehicles by adding performance criteria for immobilizers. The criteria, which roughly correlate with the types of qualities for which petitioners have been submitting testing and technical design details under existing procedures, closely follow the immobilizer performance requirements in the anti-theft standard of Canada. After this final rule, it would be sufficient for a manufacturer seeking the exemption of some of its vehicles to provide data showing that the device meets the performance criteria, as well as a statement that the device is durable and reliable. Adopting these performance criteria for immobilizers bring the U.S. anti-theft requirements more into line with those of Canada.

DATES: *Effective Date:* This rule is effective November 28, 2016.

Petitions for Reconsideration: Petitions for reconsideration of this final rule must be received not later than November 14, 2016.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Hisham Mohamed, Office of Consumer Programs, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–0307) (Fax: (202) 493–2990).

For legal issues: Mr. Ryan Hagen, Office of the Chief Counsel, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–2992) (Fax: (202) 366–3820).

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

This rulemaking action amends 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* by adding performance criteria for immobilizers. The agency has granted many exemptions from the theft prevention standard to vehicle lines on the basis that they were equipped with immobilizers. In support of petitions for these exemptions, manufacturers have provided a substantial amount of data seeking to demonstrate the effectiveness of immobilizers in reducing motor vehicle theft.

The criteria, which roughly correlate with the types of qualities for which petitioners have been submitting testing and technical design details under existing procedures, use the same four performance requirements from the Transport Canada standard. For those performance requirements, the Canadian standard also sets forth tests that manufacturers of vehicles to be sold in Canada must certify to Canadian authorities that they have conducted.

Adopting these performance criteria would simplify the exemption process for manufacturers who installed immobilizers meeting those criteria. Currently, in their petitions for exemption, vehicle manufacturers describe the testing that they have conducted on the immobilizer device and aspects of design of the immobilizer that address the areas of performance which the agency has determined are important to gauge the effectiveness of the immobilizer in reducing and deterring motor vehicle theft. Adding performance criteria for immobilizers as another means of qualifying for an exemption from the U.S. theft prevention standard will allow manufacturers that are installing immobilizers as standard equipment for a line of motor vehicles in compliance with Canadian theft prevention standards to more easily gain an exemption here. This would reduce the amount of material that manufacturers would need to submit to obtain an exemption because manufacturers would only be required to indicate and demonstrate that the immobilizer met the performance criteria and was durable and reliable to be eligible for an exemption.

This final rule allows manufacturers to obtain an exemption from the theft prevention standards by complying with any of the four performance criteria currently accepted by Transport Canada. The adoption of the performance criteria for immobilizers would bring the U.S. anti-theft requirements more into line with those of Canada. This harmonization of U.S. and Canadian requirements is being undertaken pursuant to ongoing bilateral regulatory cooperation efforts. Additionally, two of the performance criteria added by this rule are United Nations Economic Commission for Europe (UN/ECE) standards, which will allow for greater global harmonization.

We are retaining the current criteria for gaining an exemption from the vehicle theft prevention standard. Therefore, manufacturers would still be able to petition the agency to install other anti-theft devices as standard equipment in a vehicle line to obtain an exemption from the theft prevention standard. While NHTSA has granted many petitions for exemption from the theft prevention standard for vehicle lines equipped with an immobilizer type anti-theft device, we note that a manufacturer is not required to install an immobilizer in order to gain an exemption. We note also that this would not increase the number of exemptions from the theft prevention standard available to a manufacturer.

II. Background

The Motor Vehicle Theft Law Enforcement Act (the Theft Act), 49 U.S.C. 33101 *et seq.*, directs NHTSA[1] to establish theft prevention standards for light duty trucks and multipurpose passenger vehicles (MPVs) with a gross vehicle weight rating of 6,000 pounds or less and passenger cars. The Theft Act also allows NHTSA to exempt one vehicle line per model year per manufacturer from the theft prevention standard if the vehicle is equipped with an anti-theft device that the agency "decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the [theft prevention] standard." 49 U.S.C. 33106(b). The statute states that in order to obtain an exemption, manufacturers must file a petition that describes the anti-theft device in detail, states the reason that the manufacturer believes that the device will be effective in reducing or deterring theft, and contains additional information that NHTSA determines is necessary to decide whether the anti-theft device "is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the [theft prevention] standard."[2]

Pursuant to the Theft Act, NHTSA issued 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard,* which requires manufacturers of vehicles identified by the agency as likely high-theft vehicle lines to inscribe or affix vehicle identification numbers or symbols on certain components of new vehicles and replacement parts.[3] The agency refers to this requirement as the parts marking requirement.

NHTSA promulgated part 543 to establish the process for submitting petitions for exemption from the parts marking requirements in the theft prevention standard. A manufacturer may petition the agency for an exemption from the parts marking requirements for one vehicle line per model year if the manufacturer installs an anti-theft device as standard equipment on the entire line. In order to be eligible for an exemption, part 543 requires manufacturers to submit a petition explaining how the anti-theft device will promote activation, attract attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key, prevent defeat or circumvention of the device by unauthorized persons, prevent operation of the vehicle by unauthorized entrants, and ensure the reliability and durability of the device. Based on the materials in the petition, NHTSA decides whether to grant the petition in whole or in part or to deny it.

Under the existing part 543, manufacturers choose how they wish to demonstrate to the agency that the anti-theft device they are installing in a vehicle line meets the factors listed in § 543.6. Manufacturers provide differing levels of detail in their exemption petitions. Manufacturers typically provide engineering diagrams of the anti-theft device, a description of how the device functions, and testing to show that the device is durable and reliable in their petitions for exemption. Manufacturers also describe how the design of the anti-theft device satisfies the factors listed in § 543.6.

A. Effectiveness of Immobilizers in Reducing or Deterring Theft

Nearly 700,000 motor vehicle thefts took place in the U.S. in 2013, causing a loss of mobility and economic hardship to those affected.[4] The estimated value of motor vehicles stolen in 2011 was $4.1 billion, averaging $5,972 per stolen vehicle.[5] Of the vehicles stolen in the United States, nearly 45 percent are never recovered.[6] While the number of motor vehicle thefts fell 3.3 percent from 2012 to 2013, vehicle theft remains an ongoing problem in the U.S.[7] According to the FBI, a motor vehicle was stolen every 45 seconds in 2013.[8]

An immobilizer is a type of anti-theft device based on microchip and transponder technology and combined with engine and fuel immobilizer components. When activated, an immobilizer device disables the vehicle's electrical or fuel systems at several points and prevents the vehicle from starting unless the correct code is received by the transponder.

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[1] The Secretary of Transportation's responsibilities under the Theft Act have been delegated to NHTSA pursuant to 49 CFR 1.95.

[2] *Id.*

[3] Part 541 requires the following major parts to be marked: The engine, the transmission, the hood, the right and left front fenders, the right and left front doors, the right and left rear door (four-door models), the sliding or cargo doors, the decklid, tailgate or hatchback (whichever is present), the front and rear bumpers, and the right and left quarter panels. The right and left side assemblies must be marked on MPVs and the cargo box must be marked on light duty trucks.

[4] *https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/property-crime/motor-vehicle-theft-topic-page/mvtheftmain_final.pdf* (last accessed February 10, 2016).

[5] *Id.*

[6] *http://www.nhtsa.gov/Vehicle+Safety/Vehicle-Related+Theft/Theft+Prevention* (last accessed February 10, 2016).

[7] *https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/property-crime/motor-vehicle-theft-topic-page* (last accessed February 10, 2016).

[8] *http://www.trafficsafetymarketing.gov/newtsm/VehicleTheftPrevention/11539-VehicleTheftPrevention-FactSheet.pdf* (last accessed February 10, 2016).

NHTSA is aware of several sources of information demonstrating the effectiveness of immobilizer devices in reducing motor vehicle theft. In the 1980s, General Motors Corporation (GM) used an early generation of microchip devices, which later developed into the rolling code transponder device, which is currently installed in GM as well as many other vehicles. According to the Highway Loss Data Institute (HLDI), immobilizer devices are up to 50 percent effective in reducing vehicle theft.[9] The September 1997 Theft Loss Bulletin from the HLDI reported an overall theft decrease of approximately 50 percent for both the Ford Mustang and Taurus lines upon installation of an immobilizer device. Ford Motor Company claimed that its MY 1997 Mustang vehicle line (with an immobilizer) led to a 70 percent reduction in theft compared to its MY 1995 Mustang (without an immobilizer).[10] Chrysler Corporation informed the agency that the inclusion of an immobilizer device as standard equipment on the MY 1999 Jeep Grand Cherokee resulted in a 52 percent net average reduction in vehicle thefts.[11]

Mitsubishi Motors Corporation informed the agency that the theft rate for its MY 2000 Eclipse vehicle line (with an immobilizer device) was almost 42 percent lower than that of its MY 1999 Eclipse (without a immobilizer device).[12] Mazda Motor Corporation reported that a comparison of theft loss data showed an average theft reduction of approximately 50 percent after an immobilizer device was installed as standard equipment in a vehicle line.[13] In general, the agency has granted many petitions for exemptions for installation of immobilization-type devices. Manufacturers have provided the agency with a substantial amount of information attesting to the reduction of thefts for vehicle lines resulting from the installation of immobilization devices as standard equipment on those lines.

B. U.S. Canada Regulatory Cooperation Council

On February 4, 2011, the U.S. and the Canadian governments created a United States-Canada Regulatory Cooperation Council (RCC), composed of senior regulatory, trade and foreign affairs officials from both governments. In recognition of the two countries' $1 trillion annual trade and investment relationship, the RCC is working together to promote economic growth, job creation and benefits to consumers and businesses through increased regulatory transparency and coordination.[14]

On December 7, 2011, the RCC established an initial Joint Action Plan that identified 29 initiatives where the U.S. and Canada will seek greater alignment in their regulatory approaches. The Joint Action Plan highlights the areas and initiatives which were identified for initial focus. These areas include agriculture and food, transportation, health and personal care products and workplace chemicals, environment and cross-sectoral issues. One of the topics for regulatory cooperation identified in the transportation area is to pursue greater harmonization of existing motor vehicle standards. Theft prevention is one of the harmonization opportunities identified by the Motor Vehicles Working Group.

C. Canadian Motor Vehicle Safety Standard No. 114

In addition to the theft and rollaway prevention requirements included in the U.S. version of the standard, CMVSS No. 114 requires the installation of an immobilization system for all new passenger vehicles, MPVs and trucks certified to the standard with a gross vehicle weight rating (GVWR) of 4,536 kg or less, with some exceptions. CMVSS No. 114 contains four different sets of requirements for immobilizers. The four sets of requirements are National Standard of Canada CAN/ULC–S338–98, Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization (May 1998); United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97) in effect August 8, 2007, Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS); UN/ECE Regulation No. 116 (ECE R116), Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use in effect on February 10, 2009; and a set of requirements derived from the CAN/ULC 338–98 standard and ECE R97 developed by Transport Canada to increase manufacturer design flexibility (in effect March 30, 2011). Vehicles certified to CMVSS No. 114 must be equipped with an immobilizer meeting one of these four sets of requirements. Used motor vehicles imported into Canada must also be equipped with immobilizers meeting CMVSS No. 114. This requirement makes it more difficult to import into Canada motor vehicles manufactured in the U.S. that are not equipped with an immobilizer meeting CMVSS No. 114. In such cases, an immobilizer that complies with CMVSS No. 114, usually an aftermarket device, must be added to the vehicle before it can be imported into Canada.

CAN/ULC–S338–98 contains design specifications, activation and deactivation requirements, durability tests, and tests to assess the resistance to physical attack for immobilizers. ECE R97 and ECE R116 contain design specifications, activation and deactivation requirements, durability tests, and tests to assess the resistance to physical attack for immobilizers similar to those contained in CAN/ULC–S338–98. The fourth set of requirements for immobilizers in CMVSS No. 114 contains design specifications, activation and deactivation requirements, and requirements testing the ability of the immobilizer to resist deactivation by physical attack derived from the other standards. The fourth set of requirements, however, does not include the environmental tests and durability requirements that are included in CAN/ULC–S338–98, ECE R97 and ECE R116.

In adopting the fourth set of performance requirements for immobilizers contained in CMVSS No. 114, Transport Canada stated that some of the environmental and durability requirements for immobilizers contained in CAN/ULC–S338–98, ECE R97, and ECE R116 were developed for aftermarket immobilizers and should not be applied to immobilizers that are installed as original equipment on a vehicle.[15] Transport Canada also stated that those three standards contained requirements specific to particular immobilizer designs, had the potential to restrict the design of immobilizers, and had the potential to prevent the introduction of new and emerging technologies such as keyless vehicle technologies, key-replacement technologies and remote starting systems. Transport Canada stated that for these reasons it established a set of performance requirements without the environmental and durability requirements contained in CAN/ULC–S338–98, ECE R97, and ECE R116.

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[9] See *http://www.iihs.org/iihs/news/desktopnews/theft-losses-decline-by-half-when-cars-are-equipped-with-immobilizing-antitheft-devices* (last accessed February 10, 2016).

[10] 77 FR 1974 (January 12, 2012).

[11] 76 FR 68262 (November 3, 2011).

[12] 77 FR 20486 (April 4, 2012).

[13] 76 FR 41558 (July 14, 2011).

[14] *https://www.whitehouse.gov/sites/default/files/omb/oira/irc/us-canada-rcc-joint-forward-plan.pdf* (last accessed February 10, 2016).

[15] See SOR/2007–246 November, 2007 "Regulations Amending the Motor Vehicle Safety Regulations (Theft Protection and Rollaway Prevention—Standard 114)" 2007–11–14 Canada Gazette Part II, Vol. 141, No. 23.

III. Proposed Rule

The agency proposed to include performance criteria for immobilizers in part 543 so that manufacturers may more easily apply for exemptions from the parts marking requirements for vehicles lines with immobilizers conforming to CMVSS No. 114. NHTSA proposed to add performance criteria to part 543 to make our theft prevention standards more in line with those of Canada. In order to be eligible for an exemption under the proposal, manufacturers would be required to state and demonstrate that the immobilizer device they are installing in the vehicle line meets the proposed performance criteria and is durable and reliable.

The agency believes that adding performance criteria from CMVSS No. 114 to part 543 is the simplest way to make our anti-theft regulations more in line with that standard and to reduce the burden to manufacturers, who are already installing immobilizers in compliance with that standard, of applying for an exemption from the parts marking requirements. The agency could not add performance requirements for immobilizers as part of Federal Motor Vehicle Safety Standard (FMVSS) No. 114, Theft Protection and Rollaway Prevention, since doing so would require a determination that the additional requirements would be consistent with the National Traffic and Motor Vehicle Safety Act (Motor Vehicle Safety Act).[16] Further, the agency is unable to issue a theft prevention standard under the Theft Act to require the installation of immobilizers because that Act limits the agency's standard setting authority to issuing standards that require parts marking.[17] Manufacturers are allowed to install immobilizers in lieu of parts marking, but under an exemption from the theft standard, not as a compliance alternative included in the theft standard.

Prior to this final rule, NHTSA had not formally or informally adopted any technical performance criteria for anti-theft devices. While NHTSA has granted many petitions for exemption from the parts marking requirements for vehicle lines equipped with an immobilizer anti-theft device, a manufacturer is not required to install an immobilizer in order to gain an exemption. The agency proposed to retain the current exemption process so that manufacturers would still be able to gain an exemption for installing anti-theft devices that do not conform to the proposed performance criteria for immobilizers. The number of exemptions available to manufacturers would not increase as a result of the proposal. Thus, manufacturers will continue to be eligible for an exemption from the parts marking requirements for only one vehicle line per model year.

NHTSA proposed only the fourth set of performance criteria for immobilizers contained in CMVSS No. 114 for inclusion in part 543. The agency proposed to adopt only this one set of performance criteria because of the factors articulated by Transport Canada discussed in Section C above. Furthermore, the agency proposed adopting only this one set of performance criteria as the simplest way to harmonize anti-theft regulations between the U.S. and Canada. In the proposed rule, NHTSA anticipated the possibility that vehicles equipped with immobilizers meeting the performance criteria in CAN/ULC–S338–98, ECE R97, or ECE R116 would still be able to obtain an exemption from the theft prevention standard via a petition filed under the current exemption procedures. The agency sought comment on whether it should consider including all four performance criteria.

In its proposal, NHTSA tentatively concluded that immobilizers meeting the proposed performance criteria are likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts marking requirements in part 541. The agency has granted numerous exemptions from the theft prevention standard for vehicle lines equipped with immobilizers based on data submitted by manufacturers indicating that immobilizers were as effective in reducing and deterring motor vehicle theft as compliance with that standard. Several studies have also indicated that immobilizers designed to meet technical performance criteria are effective in reducing and deterring motor vehicle theft. Studies in Australia and Canada on the effectiveness of immobilization systems (which meet CAN/ULC–S338–98 or ECE R97 and ECE R116) have shown reduced incidence of theft compared to vehicles that were not equipped with immobilizers.[18]

For these reasons, the agency concluded that establishing performance criteria for immobilizers as a means of getting an exemption from the theft prevention standard is consistent with 49 U.S.C. 33106 of the Theft Act. That section requires the agency to determine that an anti-theft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts marking requirements in part 541 in order to grant an exemption from those requirements.

The proposed performance criteria for immobilizers included specifications for when the immobilizer should arm after the disarming device is removed from the vehicle. The performance criteria state that, when armed, the immobilizer should prevent the vehicle from moving more than three meters under its own power by inhibiting the operation of at least one of the vehicle's electronic control units (ECU). Further, the performance criteria state that, when armed, the immobilizer should not disable the vehicle's brake system. During the disarming process, the immobilizer should send a code to the inhibited ECU to allow the vehicle to move under its own power. The immobilizer should be configured so that disrupting the device's normal operating voltage cannot disarm the immobilizer. Additionally, the immobilizer must have a minimum capacity for 50,000 code variants and shall not be capable of processing more than 5,000 codes within 24 hours unless the immobilizer uses rolling or encrypted codes. The performance criteria state that it shall not be possible to replace the immobilizer without the use of software. In order to satisfy the performance criteria, the immobilizer in a vehicle must be designed so that it is not possible to disarm it using common tools within five minutes.

In order to promote understanding of the new terms used in the regulatory text, the agency also proposed definitions for "immobilizer" and "accessory mode."

The agency plans on ensuring that immobilizer devices that manufacturers are installing to obtain an exemption conform with the proposed performance criteria by requiring manufacturers to state that they have certified the immobilizer installed on the vehicle to the performance criteria of CMVSS No. 114. Manufacturers must be ready to provide Transport Canada with evidence that the immobilizer complies with CMVSS No. 114, along with all other applicable Canadian Standards, prior to certifying the vehicle under the Canadian Motor Vehicle Safety Act.[19] NHTSA believes that it can rely on the information that manufacturers have kept to provide to Transport Canada regarding their certification to CMVSS No. 114 to ensure that immobilizers manufacturers install in order to obtain an exemption conform to the proposed performance criteria. The NPRM proposed that manufacturers submit the documentation provided to Transport Canada regarding their certification to CMVSS No. 114 to NHTSA as part of a manufacturer's petition for exemption. We do not believe that requiring this information as part of the petition would place a burden on manufacturers because they are already compiling this information to provide to Transport Canada, if requested, when certifying their vehicles under the Canadian Motor Vehicle Safety Act.

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[16] 49 U.S.C. 30101 *et seq.*

[17] *See* 49 U.S.C. 33101(11) (defining "vehicle theft prevention standard" as a performance standard for identifying major vehicle parts by affixing numbers or symbols to those parts).

[18] *See Principles for Compulsory Immobilizer Schemes,* prepared for the National Motor Vehicle Theft Reduction Council by MM Starrs Pty Ltd., ISBN 1 876704 17 9, Melbourne, Australia, October 2002; Matthew J Miceli "A Report on Fatalities and Injuries as a Result of Stolen Motor Vehicles (1999–2001)," prepared for The National Committee to Reduce Auto Theft Project #6116 and Transport Canada, December 10, 2002.

The proposed regulatory text did not include a requirement that manufacturers provide a detailed description of the immobilizer device as part of the petition because we believe that the documentation that manufacturers are keeping to provide to Transport Canada, and that they would be required to provide to NHTSA, describes the immobilizer device in sufficient detail for the agency to be able to determine whether the device satisfies the performance criteria.

The proposed performance criteria did not include specifications that address the durability and reliability of immobilizers because the agency was concerned about the limitations such specifications could pose to immobilizer designs. Part 543 currently requires manufacturers to explain how the design of their immobilizer device ensures that it is durable and reliable in order to be eligible for an exemption.[20] Because the agency believes that it is possible for the durability and reliability of an immobilizer to impact its effectiveness, we tentatively decided to retain this criterion of eligibility as part of the proposed performance criteria. We tentatively concluded that requiring manufacturers to submit a statement regarding the durability and reliability of the immobilizer is the best way to ensure that immobilizers are durable and reliable without impacting the ability of manufacturers to create new immobilizer systems. We believe manufacturers will submit statements similar to the ones they are currently submitting as part of their exemption applications to demonstrate that their immobilizers are durable and reliable.

The agency stated it believes the proposed performance criteria are consistent with the following anti-theft device attributes that are currently contained in part 543:

- The specification in the proposed performance criteria that the immobilizer arm after the disarming device is removed from the vehicle will facilitate activation of the immobilizer by the driver and prevent unauthorized persons who have entered the vehicle by means other than a key from operating the vehicle.[21]
- The specification in the proposed performance criteria that the immobilizer have certain code processing capabilities and be resistant to physical attack will ensure that the immobilizer is designed to prevent defeat or circumvention by persons entering the vehicle by means other than a key.[22]

The proposed performance criteria correspond to the aspects of performance of immobilizer devices that manufacturers now qualitatively describe in their exemption petitions. Manufacturers are currently demonstrating the effectiveness of immobilizers by describing the testing the immobilizer has been subjected to, how the immobilizer is activated, how the immobilizer interacts with the key to allow the vehicle to start and the encryption of electronic communications between the key and the immobilizer. These characteristics correspond to performance criteria in the proposal for how the immobilizer must arm, preventing the vehicle from moving under its own power, how the immobilizer must disarm to allow the driver to start the vehicle, the minimum number of code variants that the immobilizer is able to process, and the immobilizer's resistance to manipulation and physical attack. The proposed performance criteria simplify the process for applying for an exemption because manufacturers would no longer need to describe how the immobilizer achieves these aspects of performance. Instead, manufacturers would only need to state and demonstrate that their immobilizer device conforms to the performance criteria, and is durable and reliable.

In order to allow manufacturers to more easily apply for an exemption from the theft prevention standard and to reduce the burden to the agency in processing exemption petitions we tentatively decided that we will notify manufacturers of decisions to grant or deny exemption petitions by notifying them of the agency's decision in writing. As proposed, we would not publish notices of our decisions to grant or deny exemption petitions from the theft prevention standard based on the manufacturer having satisfied the performance criteria in the **Federal Register**. NHTSA would continue to inform the public and law enforcement that a particular vehicle line has an exemption based on satisfaction of the performance criteria by updating the list of exempt vehicle lines in appendix A–I to part 541.

IV. Overview of Comments

NHTSA received two comments on the proposed rule. Commenters were generally supportive of the proposal because it allows for improved harmonization with Canada, but expressed concerns about the documentation required to obtain an exemption and allowing for more compliance options similar to Transport Canada's CMVSS No. 114.

The Alliance of Automobile Manufacturers (Alliance) expressed a procedural concern with the information manufacturers must provide to NHTSA in order to obtain an exemption under the proposed regulation. Specifically, the Alliance noted that in order to comply with Canadian law, manufacturers must certify as complying with all applicable CMVSSs—but manufacturers do not routinely provide compliance data to Transport Canada to prove compliance. Because of this, the Alliance suggested that manufacturers only be required to submit a statement that the immobilizer meets the performance requirements noted in the proposal. The Alliance suggested that this statement would eliminate the proposal's requirement to submit the same documentation that demonstrates compliance with CMVSS No. 114.

Toyota Motor North America, Inc. (Toyota) submitted a comment stating that it agrees with the comments submitted by the Alliance and that it believes immobilizers conforming to any of the four enumerated standards in CMVSS No. 114 should be acceptable to obtain an exemption under part 543. Toyota suggests that allowing manufacturers to obtain an exemption by complying with any of the four accepted standards would allow for greater harmonization between the United States and Canada, as well as increase manufacturer flexibility.

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[19] Motor Vehicle Safety Act. R.S.C., ch. 16 section 5(1)(e) (1993) (Can.). The Canadian Motor Vehicle Safety Act requires a manufacturer to certify that its vehicles comply with all applicable Canadian Motor Vehicle Safety Standards before the vehicles can be sold in Canada.

[20] 49 CFR 543.6(a)(3)(v).

[21] *See* 49 CFR 543.6(a)(3)(i), (iv) (stating that the application for exemption must include an explanation of how the anti-theft device facilitates activation by the driver and prevents unauthorized persons who have entered the vehicle by means other than a key from operating the vehicle).

[22] *See* 49 CFR 543.6(a)(3)(iii)(iv) (stating that the application for exemption must include an explanation of how the anti-theft device prevents defeat or circumvention of the device by an someone without the vehicle's key and prevents unauthorized persons who have entered the vehicle by means other than a key from operating the vehicle).

V. Response to Comments and Differences Between the Final Rule and NPRM

A. Manufacturers Seeking an Exemption Via Compliance With Performance Criteria Will Be Required To Submit Data Demonstrating Compliance With Standards

Transport Canada has a certification process that is similar to NHTSA's "self-certification process." Under Canada's Motor Vehicle Safety Act, the responsibility rests with the vehicle manufacturer or importer to certify that all new vehicles offered for sale in Canada comply with all applicable safety standards in effect on the date of manufacture. Manufacturers or importers certify this by displaying the national safety mark. As a prerequisite to obtaining permission to use the national safety mark, a manufacturer must maintain records demonstrating completion of certification testing. While certification test documentation may not be requested by Transport Canada for every new or imported vehicle in Canada, the Canadian Motor Vehicle Safety Act requires such records be available should Transport Canada request them.

NHTSA believes that providing only a statement of compliance with CMVSS No. 114 is insufficient to justify an exemption from the theft prevention standard. Moreover, the data NHTSA will require is data manufacturers should be keeping in order to facilitate any compliance verification requests from Transport Canada.

The agency currently receives petitions for exemptions from manufacturers that present justification for receiving an exemption. This application includes an explanation of how the anti-theft device will promote activation, attract attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key, prevent defeat or circumvention of the device by unauthorized persons, prevent operation of the vehicle by unauthorized persons to enter or operate a vehicle by unauthorized entrants, and ensure the reliability and durability of the device. On those grounds, the agency can evaluate the justification and grant or deny the exemption. This rule seeks to streamline the exemption process by using compliance with certain standards in lieu of submitting separate justifications for exemptions under Part 543. Requiring manufacturers to provide the recordkeeping information required by the Transport Canada to demonstrate CMVSS No. 114 compliance, should Transport Canada ask for the data, allows NHTSA to ensure anti-theft devices installed on vehicles meet the same level of performance as would be expected of an anti-theft device requested through the prior exemption process. Therefore, the agency is finalizing the proposed requirement that manufacturers submit compliance data kept for Transport Canada compliance in order to prove compliance with CMVSS No. 114 standards.

B. Manufacturers Seeking an Exemption Via Compliance With Performance Criteria May Comply With Any of the Four Criteria in CMVSS No. 114

We sought comments on whether adding the standards in CAN/ULC–S338–98,[23] ECE R97, and ECE R116 to the agency's accepted performance criteria would better accomplish the agency's goal of harmonizing the process for obtaining an exemption with the Canadian theft prevention standard. After reconsideration of the proposal and reviewing public comments, NHTSA has decided to accept anti-theft devices compliant with any of the four performance criteria allowed under CMVSS No. 114 for exemptions under part 543. Manufacturers will be required to submit statements similar to the ones they are currently submitting as part of their exemption applications to demonstrate that immobilizers certified to any of the four standards are durable and reliable. The agency proposed what it believed to be the simplest method of harmonization with Canada; however, after evaluating stakeholder response to this issue, we believe that finalizing all four performance criteria will simplify compliance and promote harmonization between the United States and Canada.

We proposed Transport Canada's fourth performance criteria because Transport Canada determined that the three other standards were developed for aftermarket immobilizers and had the potential to restrict the design of immobilizers. Finalizing all four performance criteria will provide additional flexibility by allowing OEMs and aftermarket manufacturers to elect the performance criteria most appropriate for their device. It will also improve harmonization with the United Nations Economic Commission for Europe (ECE) immobilizer performance criteria by allowing manufacturers the option of complying with one of two ECE standards and receiving an exemption from the theft prevention standard.

Further, NHTSA believes allowing all four performance standards will be as effective in reducing and deterring motor vehicle theft as compliance with the parts marking requirements in part 541. Since 2007, when Transport Canada began requiring OEMs to install immobilizers meeting one of the four performance criteria for most vehicles, theft in Canada has decreased more than 50 percent.[24] As discussed in the proposal, the agency believes that based on the effectiveness of immobilizers certified to any of the performance criteria in Canada, the regulations finalized today are consistent with the Theft Act.

The agency has modified the regulatory text to reflect the inclusion of all four performance criteria. As a result of doing so, NHTSA has moved the originally proposed criteria from C.R.C. c. 1038.114, *Theft Protection and Rollaway Prevention* (in effect March 30, 2011) to appendix A of part 543.

VI. Costs, Benefits, and Compliance Date

This rule amends part 543 to add performance criteria for immobilizers that are contained in CMVSS No. 114. Because the agency is retaining the current exemption process as a means of gaining an exemption from the theft prevention standard, the addition of performance criteria to part 543 would result in no costs to manufacturers. Manufacturers would not be required to make any changes to products in order to retain eligibility for an exemption.

The agency cannot quantify the benefits of this rulemaking. The agency does, however, expect some benefits to accrue from making the exemption process in part 543 more closely harmonized with CMVSS No. 114. Additionally, since two of the accepted performance criteria added by this rule are ECE standards, manufacturers could potentially pay less for immobilizer devices if they are able to order higher volumes of parts due to harmonization with Canadian and ECE standards.

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[23] NHTSA was notified that ULC posted a withdrawal for CAN/ULC–S338–98 on December 22, 2015. The comment period for this withdrawal closed on January 20, 2016. See: *https://www.scc.ca/en/standards/work-programs/ulc/standard-for-automobile-theft-deterrent-equipment-and-systems-electronic-immobilization* (last accessed February 10, 2016).

[24] See "actual incidents" of "total theft of motor vehicle" at *http://www5.statcan.gc.ca/cansim/a01?lang=eng* (last accessed February 10, 2016).

Adding the performance criteria would allow manufacturers that are installing immobilizers as standard equipment for a line of motor vehicles in compliance with CMVSS No. 114 to more easily gain an exemption from the parts marking requirements. The agency believes this would reduce the cost to manufacturers of applying for an exemption from the parts marking requirements. Adding performance criteria to part 543 would also result in a reduction in vehicle theft in cases for which the rule improves the effectiveness of the anti-theft devices chosen by manufacturers.

If the rule encourages more manufacturers to install immobilizers meeting CMVSS No. 114 on vehicles sold in the United States, it could result in cost savings to consumers seeking to import used vehicles into Canada. Importing used vehicles that already comply with CMVSS No. 114 into Canada saves consumers from having to pay to have an aftermarket immobilizer installed in the vehicle.

The compliance date will be 60 days after the date of issuance of the publication of this final rule.

VIII. Regulatory Notices and Analyses

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

This rule would amend part 543 to add performance criteria for immobilizers that are contained in CMVSS No. 114 to allow manufacturers who are installing immobilizers in compliance with that standard to more easily obtain an exemption from the theft prevention standard.

The agency concludes that the impacts of the changes would be so minimal that preparation of a full regulatory evaluation is not required. This rule would not result in any costs to manufacturers because the current exemption process would be left in place. Manufacturers would not be required to make any changes to current vehicles to retain eligibility for an exemption. It is also possible that this rule would result in a reduction in motor vehicle thefts if immobilizers meeting the performance criteria are more effective than current designs.

Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

> The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

NHTSA is issuing this rule pursuant to a regulatory cooperation agreement between the United States and Canada. This rule would more closely harmonize vehicle theft regulations in the United States with those in Canada.

National Environmental Policy Act

We have reviewed this rule for the purposes of the National Environmental Policy Act and determined that it would not have a significant impact on the quality of the human environment.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of the rule under the Regulatory Flexibility Act and certifies that this rule would not have a significant economic impact on a substantial number of small entities. This rule amends part 543 to add performance criteria for immobilizers that are contained in CMVSS No. 114 to allow manufacturers who are installing immobilizers in compliance with that standard to more easily obtain an exemption from the theft prevention standard. This rule would not significantly affect any entities because it would leave in place the current exemption process so that manufacturers would not need to make any changes to products to retain eligibility for an exemption. Accordingly, we do not anticipate that this rule would have a significant economic impact on a substantial number of small entities.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. There is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court. NHTSA has considered whether this rulemaking would have any retroactive effect. This rule does not have any retroactive effect.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that includes a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995).

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This rule is not anticipated to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually. The cost impact of this rule is expected to be $0. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandate Reform Act.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. This rule would decrease the materials that a manufacturer would need to submit to the agency to obtain an exemption from the vehicle theft prevention standard in certain instances.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: 49 CFR part 543, Petitions for Exemption from the Vehicle Theft Prevention Standard.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2127–0542.

Form Number: The collection of this information uses no standard form.

Requested Expiration Date of Approval: Three years from the date of approval.

Summary of the Collection of Information: This collection consists of information that motor vehicle manufacturers must submit in support of an application for an exemption from the vehicle theft prevention standard. Manufacturers wishing to apply for an exemption from the parts marking requirement because they have installed immobilizers meeting the performance criteria would be required to submit a statement that the entire line of vehicles is equipped with an immobilizer, as standard equipment, that meets the performance criteria contained in that section, a statement that the immobilizer has been certified to the Canadian theft prevention standard, documentation provided to Transport Canada to demonstrate that the immobilizer was certified to the Canadian theft prevention standard, and a statement that the immobilizer device is durable and reliable. This rule would not change the information that manufacturers would need to submit if seeking an exemption in accordance with the current process used for petitions seeking an exemption based on the installation of immobilizers.

Description of the Need for the Information and Use of the Information: The information is needed to determine whether a vehicle line is eligible for an exemption from the vehicle theft prevention standard.

Description of the Likely Respondents (Including Estimated Number, and Frequency of Response to the Collection of Information): Currently, nineteen manufacturers have one or more car lines exempted. We expect that within the three year period covered by this clearance, twelve manufacturers would apply for an exemption per year: Nine under the current process and three under the performance criteria. Based on another analysis of the exemption information NHTSA has received, as well as the comments the agency received, NHTSA has made a minor adjustment to the estimates provided in the NPRM. In comparison to the estimates provided in the NPRM, the agency believes that one more manufacturer will use the new process within the next three years. The agency thinks it is likely that more manufacturers will migrate to the new process over time, however, because many manufacturers have product plans covering the next three years that might not happen until the agency renews its collection in three years. NHTSA anticipates reevaluating this assessment during its next renewal of this collection.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information: We estimate that the burden for applying for an exemption under this rule would be 2300 hours. The burden for applying for an exemption under the current process is estimated to be 226 hours × 9 respondents = 2034 hours. The burden for apply for an exemption under the performance criteria is estimated to be 20 hours × 3 respondents = 60 hours.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical.

Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specification and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

We are not aware of any technical performance criteria for immobilizers issued by voluntary consensus standards bodies in the United States. For the reasons discussed in this notice, the agency has determined that the simplest way to harmonize part 543 with Canadian theft prevention regulations was to adopt all four performance criteria discussed above.

Executive Order 13211

Executive Order 13211 [25] applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the rule and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives considered by NHTSA.

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[25] 66 FR 28355 (May 18, 2001).

This rule amends part 543 to add performance criteria for immobilizers that are contained in CMVSS No. 114 to allow manufacturers who are installing immobilizers in compliance with that standard to more easily obtain an exemption from the theft prevention standard. Therefore, this rule would not have any significant adverse energy effects. Accordingly, this rulemaking action is not designated as a significant energy action.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 543

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR chapter V as follows.

PART 543—EXEMPTION FROM VEHICLE THEFT PREVENTION STANDARD

■ 1. The authority citation for part 543 of title 49 is revised to read as follows:

Authority: 49 U.S.C. 322, 33101, 33102, 33103, 33104 and 33105; delegation of authority at 49 CFR 1.95.

■ 2. Amend § 543.4 by adding, in alphabetical order, definitions for "Accessory mode" and "Immobilizer" in paragraph (b) to read as follows:

§ 543.4 Definitions.

* * * * *

(b) * * *

Accessory mode means the ignition switch setting in which certain electrical systems (such as the radio and power windows) can be operated without the operation of the vehicle's propulsion engine.

Immobilizer means a device that, when activated, is intended to prevent a motor vehicle from being powered by its own propulsion system.

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■ 3. In § 543.5, revise paragraphs (b)(2), (6), and (7) and add paragraphs (b)(8) and (9) to read as follows:

§ 543.5 Petition: General requirements.

* * * * *

(b) * * *

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

* * * * *

(6) Identify whether the exemption is sought under § 543.6 or § 543.7.

(7) If the exemption is sought under § 543.6, set forth in full the data, views, and arguments of the petitioner supporting the exemption, including the information specified in that section.

(8) If the exemption is sought under § 543.7, submission of the information required in that section.

(9) Specify and segregate any part of the information or data submitted that the petitioner requests be withheld from public disclosure in accordance with part 512, *Confidential Business Information,* of this chapter.

§§ 543.7 through 543.9 [Redesignated as §§ 543.8 through 543.10]

■ 4. Redesignate §§ 543.7 through 543.9 as §§ 543.8 through 543.10.

■ 5. Add a new § 543.7 to read as follows:

§ 543.7 Petitions based on performance criteria.

A petition submitted under this section must include:

(a) A statement that the entire line of vehicles is equipped with an immobilizer, as standard equipment, that meets one of the following:

(1) The performance criteria (subsections 8 through 21) of C.R.C, c. 1038.114, *Theft Protection and Rollaway Prevention (in effect March 30, 2011),* as excerpted in appendix A of this part;

(2) National Standard of Canada CAN/ULC–S338–98, *Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization* (May 1998);

(3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), *Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS)* in effect August 8, 2007; or

(4) UN/ECE Regulation No. 116 (ECE R116), *Uniform Technical Prescriptions Concerning the Protection of Motor Vehicles Against Unauthorized Use* in effect on February 10, 2009.

(b) Compliance documentation kept to demonstrate the basis for certification with the performance criteria specified in paragraph (a) of this section.

(c) A statement that the immobilizer device is durable and reliable.

■ 6. Amend newly redesignated § 543.8 by revising paragraph (f) and adding paragraph (g) to read as follows:

§ 543.8 Processing an exemption petition.

* * * * *

(f) If the petition is sought under § 543.6, NHTSA publishes a notice of its decision to grant or deny an exemption petition in the **Federal Register** and notifies the petitioner in writing of the agency's decision.

(g) If the petition is sought under § 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny an exemption petition.

■ 7. Newly redesignated § 543.9 is revised to read as follows

§ 543.9 Duration of exemption.

Each exemption under this part continues in effect unless it is modified or terminated under § 543.10, or the manufacturer ceases production of the exempted line.

■ 8. Add appendix A to part 543 to read as follows:

Appendix A to Part 543—Performance Criteria (Subsections 8 Through 21) of C.R.C, c. 1038.114 (in Effect March 30, 2011)

In order to be eligible for an exemption under § 543.7(a)(1), the entire vehicle line must be equipped with an immobilizer meeting the following criteria:

(1) Subject to paragraph (2) of this appendix, an immobilization system shall arm automatically within a period of not more than 1 minute after the disarming device is removed from the vehicle, if the vehicle remains in a mode of operation other than accessory mode or on throughout that period.

(2) If the disarming device is a keypad or biometric identifier, the immobilization system shall arm automatically within a period of not more than 1 minute after the motors used for the vehicle's propulsion are turned off, if the vehicle remains in a mode of operation other than accessory mode or on throughout that period.

(3) The immobilization system shall arm automatically not later than 2 minutes after the immobilization system is disarmed, unless:

(i) Action is taken for starting one or more motors used for the vehicle's propulsion;

(ii) Disarming requires an action to be taken on the engine start control or electric motor start control, the engine stop control or electric motor stop control, or the ignition switch; or

(iii) Disarming occurs automatically by the presence of a disarming device and the device is inside the vehicle.

(4) If armed, the immobilization system shall prevent the vehicle from moving more than 3 meters (9.8 feet) under its own power by inhibiting the operation of at least one electronic control unit and shall not have any impact on the vehicle's brake system except that it may prevent regenerative braking and the release of the parking brake.

(5) During the disarming process, a code shall be sent to the inhibited electronic control unit in order to allow the vehicle to move under its own power.

(6) It shall not be possible to disarm the immobilization system by interrupting its normal operating voltage.

(7) When the normal starting procedure requires that the disarming device mechanically latch into a receptacle and the device is physically separate from the ignition switch key, one or more motors used for the vehicle's propulsion shall start only after the device is removed from that receptacle.

(8)(i) The immobilization system shall have a minimum capacity of 50,000 code variants, shall not be disarmed by a code that can disarm all other immobilization systems of the same make and model; and

(ii) subject to paragraph (9) of this appendix, it shall not have the capacity to process more than 5,000 codes within 24 hours.

(9) If an immobilization system uses rolling or encrypted codes, it may conform to the following criteria instead of the criteria set out in paragraph (8)(ii) of this appendix:

(i) The probability of obtaining the correct code within 24 hours shall not exceed 4 per cent; and

(ii) It shall not be possible to disarm the system by re-transmitting in any sequence the previous 5 codes generated by the system.

(10) The immobilization system shall be designed so that, when tested as installed in the vehicle neither the replacement of an original immobilization system component with a manufacturer's replacement component nor the addition of a manufacturer's component can be completed without the use of software; and it is not possible for the vehicle to move under its own power for at least 5 minutes after the beginning of the replacement or addition of a component referred to in this paragraph (1).

(11) The immobilization system's conformity to paragraph (10) of this appendix shall be demonstrated by testing that is carried out without damaging the vehicle.

(12) Paragraph (10)(i) of this appendix does not apply to the addition of a disarming device that requires the use of another disarming device that is validated by the immobilization system.

(13) The immobilization system shall be designed so that it can neither be bypassed nor rendered ineffective in a manner that would allow a vehicle to move under its own power, or be disarmed, using one or more of the tools and equipment listed in paragraph (14) of this appendix;

(i) Within a period of less than 5 minutes, when tested as installed in the vehicle; or

(ii) Within a period of less than 2.5 minutes, when bench-tested outside the vehicle.

(14) During a test referred to in paragraph (13) of this appendix, only the following tools or equipment may be used: Scissors, wire strippers, wire cutters and electrical wires, a hammer, a slide hammer, a chisel, a punch, a wrench, a screwdriver, pliers, steel rods and spikes, a hacksaw, a battery operated drill, a battery operated angle grinder; and a battery operated jigsaw.

Note: C.R.C, c. 1038.114, Theft Protection and Rollaway Prevention (in effect March 30, 2011). See: SOR/2011–69 March, 2011 "Regulations Amending the Motor Vehicle Safety Regulations (Theft Prevention and Rollaway Prevention—Standard 114)" 2011–03–30 Canada Gazette Part II, Vol 145, No. 7.

Issued in Washington, DC, on September 8, 2016, under authority delegated in 49 CFR part 1.95.

Mark R. Rosekind,

Administrator.

[FR Doc. 2016–22061 Filed 9–28–16; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2015–0137; 4500030113]

RIN 1018–AZ95

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Chamaecrista lineata var. keyensis (Big Pine Partridge Pea), Chamaesyce deltoidea ssp. serpyllum (Wedge Spurge), and Linum arenicola (Sand Flax), and Threatened Species Status for Argythamnia blodgettii (Blodgett's Silverbush)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for *Chamaecrista lineata* var. *keyensis* (Big Pine partridge pea), *Chamaesyce deltoidea* ssp. *serpyllum* (wedge spurge), and *Linum arenicola* (sand flax), and threatened species status for *Argythamnia blodgettii* (Blodgett's silverbush), all plant species from south Florida. The rule adds these species to the Federal List of Endangered and Threatened Plants.

DATES: This rule is effective October 31, 2016.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, South Florida Ecological Services Field Office, 1339 20th Street, Vero Beach, FL 32960; telephone 772–562–3909; facsimile 772–562–4288.

FOR FURTHER INFORMATION CONTACT: Roxanna Hinzman, U.S. Fish and Wildlife Service, South Florida Ecological Services Field Office, 1339 20th Street, Vero Beach, FL 32960; telephone 772–562–3909; facsimile 772–562–4288. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

The basis for our action. Under the Endangered Species Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* consist primarily of:

- Habitat loss and modification through urban and agricultural development, and lack of adequate fire management (Factor A); and
- The proliferation of nonnative, invasive plants; stochastic events (hurricanes and storm surge); maintenance practices used on roadsides and disturbed sites; and sea level rise (Factor E).

Existing regulatory mechanisms have not been adequate to reduce or remove these threats (Factor D).

Peer review and public comment. We sought comments from independent specialists to ensure that our determination is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all other comments and information we received during the comment period.

Previous Federal Actions

Please refer to the proposed listing rule for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and

Argythamnia blodgettii (80 FR 58536; September 29, 2015) for a detailed description of previous Federal actions concerning these species.

Background

Please refer to the proposed listing rule (80 FR 58536; September 29, 2015) for the complete discussion of each plant's description, habitat, taxonomy, distribution, population estimates, climate, historical range, current range, status, and biology.

Below, we present only revisions to the discussions in the Background section of the proposed listing rule based on new information from peer review and public comments; as such, not every plant, or every topic for a plant, will be discussed below.

Chamaecrista lineata var. *keyensis* (Big Pine partridge pea)

Species Description

Please refer to the "Species Description" section of the proposed rule for the complete discussion. We make one minor editorial revision to our description of the plant's fruit, as follows: The fruit is an elongate pod, roughly similar to that of a pea, 33–45 millimeters (mm) (1.3–1.8 inches (in)) long and 4.5–5.0 mm (0.19–0.17 in) wide, with a soft fuzzy texture, which turns gray with age and eventually splits open to release seeds (Irwin and Barneby 1982, p. 757; Small 1933, pp. 662–663).

Habitat

Please refer to the "Habitat" section of the proposed rule for the complete discussion. In the *Pine Rocklands* discussion, we correct the following names of species: *Quercus elliottii* (running oak) is corrected to *Quercus elliottii* (running oak), and *Psidium longipes* (longstalked stopper) is corrected to *Psidium longipes* (longstalked stopper). We also correct the reference to hardwoods in the pine rocklands of the lower Florida Keys; the hardwoods in the subcanopy include species such as *Byrsonima lucida* and *Mosiera longipes* (Bradley 2006, p. 3).

Current Range, Population Estimates, and Status

Please refer to the "Current Range, Population Estimates, and Status" section of the proposed rule for the complete discussion. We make minor editorial revisions to the first sentence of the third paragraph of that section, as follows: A second indicator, the frequency with which *Chamaecrista lineata* var. *keyensis* occurred in sample plots on Big Pine Key from data collected in 2005, 2007, and 2013, also shows a decline.

Linum arenicola (sand flax)

Habitat

Please refer to the "Habitat" section of the proposed rule for the complete discussion. Under *Roadsides and Other Disturbed Sites,* we make minor editorial corrections concerning the plant's persistence on roadsides, as follows: *Linum arenicola* was at one time more common in pine rocklands in Miami-Dade County, but a lack of periodic fires in most pine rocklands fragments over the last century has pushed this species into the more sunny, artificial environments it prefers (Bradley and Gann 1999, p. 61).

Please refer to the "Current Range, Population Estimates, and Status" section of the proposed rule for the complete discussion. We make the following corrections to that discussion:

(1) We correct the description of the current distribution of *Linum arenicola* in Miami-Dade County, as follows: In Miami-Dade County, the current distribution of *Linum arenicola* is from just north of SW 184 Street (in the Martinez Pinelands Preserve), south to the intersection of Card Sound Road and the C–102 canal, and west to SW 264 Street and 177 Avenue (Everglades Archery Range at Camp Owaissa Bauer).

(2) We correct our description of the compilation of all survey work to include a missed citation for Possley (2016, pers. comm.). The corrected sentence reads: Based on a compilation of all survey work through 2016, including Austin (1980), Kernan and Bradley (1996, pp. 1–30), Bradley and Gann (1999, pp. 61–65), Hodges and Bradley (2006, pp. 37–41), Bradley and Saha (2009, p. 10), Bradley (2009, p. 3), Hodges (2010, pp. 4–5, 15), Bradley and van der Heiden (2013, pp. 6–12, 19), Bradley *et al.* (2015, pp. 28–29), and Possley (2016, pers. comm.), of 26 historical population records for *Linum arenicola,* 12 populations are extant and 14 are extirpated (see Table 3), a loss of roughly 54 percent of known populations, from the early 1900s to the present.

(3) Under *Miami-Dade County,* we correct the location of the seventh population of *Linum arenicola,* as follows: A seventh small population, located in 2014 at Zoo Miami, (Possley 2016, pers. comm.) is located on county land.

(4) As a result of the corrections described in (1) through (3), above, we present a revised version of the proposed rule's Table 3 (note: in the following table, USFWS stands for U.S. Fish and Wildlife Service; FWC stands for Florida Fish and Wildlife Conservation Commission; HARB stands for Homestead Air Reserve Base; and SOCSOUTH stands for Special Operations Command South Headquarters):

TABLE 3—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF *Linum arenicola*

Population	Ownership	Most Recent Population Estimate	County	Trend
Extant 12 records				
Big Pine Key	USFWS, FWC, TNC[12], Private.	2,676 (2007)[1]	Monroe	declining.
Upper Sugarloaf Key	FDOT[13], USFWS	73 (2010)[2]	Monroe	insufficient data.
Lower Sugarloaf Key	FDOT[13], USFWS	531 (2010)[2]	Monroe	stable.
Big Torch Key	FDOT[13], Private	1 (2010)[2]	Monroe	declining.
Zoo Miami	Miami-Dade County	56 (2014)[5]	Miami-Dade	insufficient data.
Martinez Pineland	Miami-Dade County	100–200 (2013)[6]	Miami-Dade	insufficient data.
Everglades Archery Range	Miami-Dade County	23 (2012)[7]	Miami-Dade	insufficient data.
HAFB[15] 1—S of Naizare BLVD	DOD[14], Miami-Dade County.	24,000 (2013)[7]	Miami-Dade	stable.
SOCSOUTH (HAFB 2—NW side of Bikini BLVD).	DOD[14] (leased from Miami-Dade County).	74,000 (2009)[7][10]	Miami-Dade	stable.
HARB (SW 288 St. and 132 Ave)	DOD[14]	37 (2011)[7]	Miami-Dade	insufficient data.
C–102 Canal SW 248 St. to U.S. 1	SFWMD[11]	1,000–10,000 (2013)[7]	Miami-Dade	insufficient data.

TABLE 3—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF *Linum arenicola*—Continued

Population	Ownership	Most Recent Population Estimate	County	Trend
L–31E canal, from SW 328 St. to Card Sound Road.	SFWMD [11]	Plants occur along 14 km (8.7 mi) of levee (2013) [7].	Miami-Dade	insufficient data.
		Extirpated 14 records		
Middle Torch Key	FWC, FDOT [13]	3 (2005) [3]	Monroe.	
Ramrod Key	FDOT [13]	110 (1979) [4]	Monroe.	
Park Key	FDOT [13]	unknown (1961) [3]	Monroe.	
Boca Chica	DOD [14], other (unknown).	unknown (1912) [3]	Monroe.	
Camp Jackson	unknown	unknown (1907) [9]	Miami-Dade.	
Big Hammock Prairie	unknown	unknown (1911) [9]	Miami-Dade.	
Camp Owaissa Bauer	Miami-Dade County	10 (1983) [7]	Miami-Dade.	
Allapatah Drive and Old Cutler Road	Private	256 (1996) [8]	Miami-Dade.	
Bauer Drive (Country Ridge Estates)	Miami-Dade County	8 (1996) [8]	Miami-Dade.	
Silver Green Cemetery	Private	47 (1996) [8]	Miami-Dade.	
Palmetto Bay Village Center	Private	12 (1996) [8]	Miami-Dade.	
HAFB (Community Partnership Drive)	DOD [14], Miami-Dade County.	unknown (2010) [7]	Miami-Dade.	
Coco Plum Circle (corner of Robles Street & Vista Mar Street).	Private	75 (1996) [8]	Miami-Dade.	
George Avery Pineland Preserve	Private	"small colony" (2002) [7]	Miami-Dade.	

[1] Bradley and Saha 2009, p. 10.
[2] Hodges 2010, p. 10.
[3] Hodges and Bradley 2006, pp. 39–48.
[4] Austin *et al.* 1980 in FNAI.
[5] Possley 2016, pers. comm., p. 11.
[6] Possley 2014, pers. comm.
[7] Bradley and Van Der Heiden 2013, pp. 6–11.
[8] Kernan and Bradley 1996, p. 9.
[9] Bradley and Gann 1999, p. 65.
[10] Bradley 2009, p. 3.
[11] South Florida Water Management District (SFWMD).
[12] The Nature Conservancy (TNC).
[13] Florida Department of Transportation (FDOT).
[14] Department of Defense (DOD).
[15] Homestead Air Force Base (HAFB; decommissioned).

Biology

Please refer to the "Biology" section of the proposed rule for the complete discussion.

We revise the *Life History and Reproduction* discussion to read:

Life History and Reproduction: Little is known about the life history of *Linum arenicola*, including pollination biology, seed production, or dispersal. Reproduction is sexual, with new plants generated from seeds. *L. arenicola* is apparently self-compatible (Harris 2016, pers. comm.). The species produces flowers nearly year round, with maximum flowering from April to September, with a peak around March and April. *L. arenicola* population demographics or longevity have not been studied (Bradley and Gann, 1999, p. 65; Hodges and Bradley 2006, p. 41; Hodges 2007, p. 2; Harris 2016, pers. comm.).

Argythamnia blodgettii (Blodgett's silverbush)

Species Description

Please refer to the "Species Description" section of the proposed rule for the complete discussion. We clarify the description of the leaves of *Argythamnia blodgettii*, as follows: The leaves, arranged alternately along the stems, are 1.5 to 4.0 centimeters (cm) (0.6 to 1.6 in) long, have smooth (or rarely toothed) edges, are oval or elliptic in shape, and often are colored a distinctive, metallic bluish green when dried.

Taxonomy

Please refer to the "Taxonomy" section of the proposed rule for the complete discussion.

To the end of the first paragraph, we add the following: Ingram (1952) indicates the distribution of *Argythamnia argothamnoides* (including Florida material) as Florida and Venezuela. As such, the Service accepts the treatment of *Argythamnia blodgettii* as a distinct species and therefore does not find a compelling justification to remove the species from consideration for listing under the Act.

Current Range, Population Estimates, and Status

Please refer to the "Current Range, Population Estimates, and Status" section of the proposed rule for the complete discussion. We make the following corrections to that discussion:

(1) We correct the data in Table 4, presented below. (Note: In the following table, USFWS stands for U.S. Fish and Wildlife Service; FWC stands for Florida Fish and Wildlife Conservation Commission; DOD stands for Department of Defense; and ENP stands for Everglades National Park.)

(2) Because of the corrections presented below for Table 4, the text preceding the table in the proposed rule is now incorrect. Based on the data presented below in Table 4, there are 50 records for *Argythamnia blodgettii* in Miami-Dade and Monroe Counties. Twenty populations are extant, 15 are extirpated, and the status of 15 is uncertain because they have not been surveyed in 15 years or more.

TABLE 4—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF *Argythamnia blodgettii*

Population	Ownership	Most recent population estimate	County	Trend
Extant 20 records				
Plantation Key, Snake Creek Hammock	FWC	101–1,000 (2005)[2]	Monroe	Insufficient data.
Lower Matecumbe Key—Klopp Tract	FDEP[6]	11–100 (2000)[2]	Monroe	Insufficient data.
Lignumvitae Key	FDEP[6]	101–1,000 (2005)[2]	Monroe	Insufficient data.
Big Munson Island	Private (Boy Scouts of America).	1,001–10,000 (2005)[2]	Monroe	Insufficient data.
North Key Largo	DOD, FDOT	No estimate (2005)[8]	Monroe	Insufficient data.
Key Largo—Dove Creek Hammock	FWC, FDOT	11–100 (2005)[2]	Monroe	Insufficient data.
Vaca Key (Marathon)—Blue Heron Hammock.	FWC, FDOT	11–100 (2005)[2]	Monroe	Insufficient data.
Windley Key—State Park	FDEP[6]	11–100 (2005)[2]	Monroe	Insufficient data.
Boca Chica KWNAS[7] Runway 25	DOD	1,001–10,000 (2004)[2]	Monroe	Insufficient data.
Boca Chica Key KWNAS[7] Weapons Hammock.	DOD	200 (2004)[2]	Monroe	Insufficient data.
Big Pine Key	USFWS, FWC, private.	~2,200 (2005)[2]	Monroe	Insufficient data.
ENP Long Pine Key Deer Hammock area (Pine Block A), Turkey Hammock area (Pine Block B), Pine Block E.	NPS[5]	2,000 (2015)[4]	Miami-Dade	Insufficient data.
Fuch's Hammock	Miami-Dade County	12 (2008)[1]	Miami-Dade	Insufficient data.
Owaissa Bauer Addition	Miami Dade Parks and Recreation.	377 (2014)[9]	Miami-Dade	Insufficient data.
Camp Owaissa Bauer	Miami Dade Parks and Recreation.	878 (2009)[9]	Miami-Dade	Insufficient data.
Ned Glenn Pineland Preserve	Miami Dade Parks and Recreation.	8 (2016)[10]	Miami-Dade	Insufficient data.
Camp Choee	Private (Girl Scout Council of Tropical Florida).	3 (2005)[3]	Miami-Dade	Insufficient data.
Florida Power and Light Easement adjacent to Ludlam Preserve.	Private	7 (2015)[9]	Miami-Dade	Insufficient data.
Larry and Penny Thompson Park	Miami Dade Parks and Recreation.	5,700 (2009)[9]	Miami-Dade	Insufficient data.
Boystown Pineland	Private	No estimate (2005)[3]	Miami-Dade	Insufficient data.
Uncertain 15 records				
Crawl Key, Forestiera Hammock	Private	10 (1982)[3]	Monroe	Insufficient data.
Long Key State Park	FDEP	No estimate (1999)[2]	Monroe	Insufficient data.
Stock Island	Private	No estimate (1981)[2]	Monroe	Insufficient data.
Boot Key	Private	11–100 (1998)[2]	Monroe	Insufficient data.
Deering Estate	State of Florida	11–100 (1991)[1]	Miami-Dade	Insufficient data.
Castellow Hammock	Miami Dade Parks and Recreation.	11–100 (1991)[1]	Miami-Dade	Insufficient data.
Pine Ridge Sanctuary	Private	2–10 (1992)[1]	Miami-Dade	Insufficient data.
County Ridge Estates	Private	11–100 (1999)[1]	Miami-Dade	Insufficient data.
Epmore Drive pineland	Private	2–10 (1999)[1]	Miami-Dade	Insufficient data.
Gifford Arboretum Pineland	Private	2–10 (1999)[1]	Miami-Dade	Insufficient data.
Ned Glenn Nature Preserve	Miami Dade Parks and Recreation.	11–100 (1999)[1]	Miami-Dade	Insufficient data.
Natural Forest Community #317	Private	2–10 (1999)[1]	Miami-Dade	Insufficient data.
Old Dixie pineland	Private	11–100 (1999)[1]	Miami-Dade	Insufficient data.
Castellow #33	Private	12 (1995)[3]	Miami-Dade	Insufficient data.
Castellow #31	Private	30 –50 (1995)[3]	Miami-Dade	Insufficient data.
Extirpated 15 records				
Upper Matecumbe Key	unknown	No estimate (1967)[3]	Monroe.	
Totten Key	NPS	No estimate (1904)[1]	Monroe.	
Key West	City of Key West	No estimate (1965)[1]	Monroe.	
SW 184th St. and 83rd Ave.	Private	0 (2016)[10]	Miami-Dade	Insufficient data.
Tropical Park Pineland	Miami Dade Parks and Recreation.	0 (2016)[9]	Miami-Dade.	
Crandon Park—Key Biscayne	Miami Dade Parks and Recreation.	0 (2008)[9]	Miami-Dade.	
Brickell Hammock	unknown	Extirpated 1937[1]	Miami-Dade.	
Carribean Park	Miami-Dade County	Extirpated 1998[1]	Miami-Dade.	
Coconut Grove	Miami-Dade County	Extirpated 1901[1]	Miami-Dade.	
Coral Gables area	unknown	Extirpated 1967[1]	Miami-Dade.	
Miller and 72nd Ave	unknown	Extirpated 1975[1]	Miami-Dade.	

TABLE 4—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF *Argythamnia blodgettii*—Continued

Population	Ownership	Most recent population estimate	County	Trend
Orchid Jungle	Miami-Dade County	Extirpated 1930[1]	Miami-Dade.	
Palms Woodlawn Cemetery	Private	Extirpated 1992[1]	Miami-Dade.	
South of Miami River	unknown	Extirpated 1913[1]	Miami-Dade.	
Naranja	Private	No estimate (1974)[3]	Miami-Dade.	

[1] Bradley and Gann 1999, p. 6.
[2] Hodges and Bradley 2006, pp. 10–17.
[3] FNAI 2011b.
[4] Sadle 2015, pers. comm., p. 1.
[5] National Park Service (NPS).
[6] Florida Department of Environmental Protection (FDEP).
[7] Key West Naval Air Station (KWNAS).
[8] Henize and Hipes 2005, p. 25.
[9] Possley 2016, pers. comm.
[10] Lange 2016, pers. comm.

Summary of Comments and Recommendations

In the proposed rule published on September 29, 2015 (80 FR 58536), we requested that all interested parties submit written comments on the proposal by November 30, 2015. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Miami Herald and Key West Citizen. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise that included familiarity with *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* and their habitats, biological needs, and threats. We received responses from all three peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve this final rule.

(1) *Comment:* One peer reviewer and one public commenter provided new information about the status of various populations of *Linum arenicola* and *Argythamnia blodgettii* within Miami-Dade County preserves. The peer reviewer suggested that the Service may be overestimating the number of extant populations of *A. blodgettii,* referring to outdated data for Tropical Park, Martinez Preserve, and Crandon Park. The reviewer also suggested the rule should identify the separate parcels within the Richmond Pinelands complex (*i.e.,* Ram Development Corporation, Martinez Pineland Preserve, Larry and Penny Thompson Park, Zoo Miami, University of Florida, and those owned by the Department of Defense (DOD)).

Our Response: The Service appreciates the new information. We have updated the tables, and associated text, summarizing the status and trends of the known occurrences of *Linum arenicola* and *Argythamnia blodgettii* (Tables 3 and 4, above).

(2) *Comment:* Two peer reviewers and one public commenter identified a recent publication by Ramirez-Amezcua and Steinman (2013) that included a treatment of the *Argythamnia* subgenus *Ditaxis* in Mexico, stating that the range of *A. argothamnoides* includes Florida, which may bring into question the validity of *A. blodgettii* as a valid taxon. One reviewer concluded that after reading the published information on the subject, he did not find compelling information to suggest that Florida *A. blodgettii* populations are synonymous with *Argythamnia* spp. outside of Florida. This reviewer also recommended that the Service treat *A. blodgettii* as a distinct species, endemic to Florida.

Our Response: The Service has reviewed Ramirez-Amezcua and Steinman (2013) and additional literature relating to the taxonomy of *Argythamnia blodgettii.* As stated in the "Taxonomy" sections of this rule and the proposed rule, there is a history of changes to the classification of this plant, with many based on studies that do not include samples from across the plant's range, including the recent publication suggesting that *Argythamnia blodgettii* is synonymous with the wider ranging *Ditaxis argothamnoides.* However, the Service accepts the treatment of *A. blodgettii* as a distinct species and therefore does not find a compelling justification to remove the species from consideration for listing under the Act.

(3) *Comment:* One reviewer commented on the need to include information about genetic studies in the document.

Our Response: No genetic studies of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii* have been conducted.

(4) *Comment:* One reviewer disagreed with our statement that there is no regulatory protection for State-listed plants on private lands through Florida Administrative Code (FAC) 5B–40.

Our Response: The Service apologizes for mischaracterizing the regulatory protections provided through FAC 5B–40. We have corrected this, and describe the protections in detail in this final rule under *Factor D. The Inadequacy of Existing Regulatory Mechanisms,* below.

(5) *Comment:* One reviewer suggested future research in best practices for mowing areas that support *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.*

Our Response: The Service agrees that the best mowing practices should be investigated to support the species. This is a topic that will be addressed in the recovery planning process.

(6) *Comment:* One reviewer provided new information from an ongoing study about the direct and indirect effects of mosquito insecticide spray on flower visitors and reproductive fitness of *Chamaecrista lineata* var. *keyensis* and *Linum arenicola* in the lower Florida Keys. In addition, two public commenters took issue with the section of the proposed rule that discussed mosquito control pesticide applications as a factor affecting pollinators of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* They asserted that the Service made incorrect statements regarding the frequency and amount of mosquito control adulticide treatments in South Florida. These public commenters requested that any mention of pesticide effects on pollinators be removed from this final rule.

Our Response: The Service appreciates the new information provided by the peer reviewer. Data from ongoing studies in the lower Florida Keys of *L. arenicola* flower visitor observations show that sites not treated with adulticides had slightly higher fruit set rates than treated sites and pollinator-excluded experimental trials. Several species of small bees were observed frequenting flowers at untreated sites, while visitation was much less frequent at the treated site. Extensive studies in the Florida Keys suggest that broad spectrum insecticides negatively affect nontarget invertebrates, including pollinators (Hennessey 1991; Eliazar and Emmel 1991; Kevan *et al.* 1997; Salvato 2001; Bargar 2011; Hoang *et al.* 2011). In addition, pesticides have been shown to drift into adjacent undisturbed habitat that serves as a refuge for native biota (Hennessey 1992; Pierce *et al.* 2005; Zhong *et al.* 2010; Bargar 2011). These pesticides can be fatal to nontarget invertebrates that move between urban and forest habitats, altering ecological processes within forest communities (Kevan and Plowright 1989, 1995; Liu and Koptur 2003).

The Service believes that pesticide spraying may be a factor affecting the reproductive success of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* However, we acknowledge that pesticide spraying practices by the Florida Keys Mosquito Control District (FKMCD) at National Key Deer Refuge (NKDR) have changed over the years to reduce pesticide use. Since 2003, expanded larvicide treatments to surrounding islands have significantly reduced adulticide use on Big Pine Key, No Name Key, and the Torch Keys. In addition, the number of aerially applied naled (Dibrom®) treatments allowed on NKDR has been limited since 2008 (FKMCD 2012, pp. 10–11). Zones that include the core habitat used by pine rockland butterflies, and several linear miles of pine rocklands habitat within the Refuge-neighborhood interface, were excluded from truck spray applications (no-spray zones) (Anderson 2012, pers. comm.; Service 2012, p. 32). These exclusions and buffer zones encompass over 95 percent of extant croton distribution on Big Pine Key, and include the majority of known recent and historical Florida leafwing population centers on the island (Salvato 2012, pers. comm.).

Accordingly, the Service commends the FKMCD for its cooperation in recovering endangered butterflies and plants. Nevertheless, we are proceeding cautiously and have initiated a multi-year research project to further investigate the level of impact pesticides have on these four plants.

Federal Agency Comments

(7) *Comment:* The U.S. Navy expressed interest and a commitment to work proactively with the Service to coordinate on the proposed listing of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* under the Act. Naval Air Station (NAS) Key West, Florida, is subject to the NAS Key West Integrated Natural Resources Management Plan (INRMP). The Navy noted that the NAS Key West INRMP was acknowledged in the proposed listing rule as providing a conservation benefit to *Argythamnia blodgettii* habitat. The 2013 INRMP update identified several Monroe County rare species, including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola,* that do not occur on NAS Key West properties. The Navy requested that the Service coordinate with it prior to proposing critical habitat on Navy land for any of these species and to fully consider the benefits imparted to these species through INRMP implementation.

Our Response: We appreciate the U.S. Navy's interest and commitment to work proactively with the Service to conserve *Argythamnia blodgettii.* In particular, NAS Key West has been proactive in surveying for these species and updating the NAS Key West INRMP to include conservation measures for *Argythamnia blodgettii.* The Service will coordinate early with NAS Key West regarding any critical habitat proposal for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii.*

Comments From the State

We received comments from a peer reviewer who is employed by the Florida Forest Service. Those comments are addressed above under *Peer Reviewer Comments* in our responses to Comments (3) and (4).

Public Comments

(8) *Comment:* One commenter opposed the proposed listing of the plants on Big Pine Key, Florida. While the commenter generally agreed with the field data for the *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* the commenter asserted the habitat can no longer sustain these and other federally protected endangered species going forward. The commenter described several alterations, including drainage canals and shallow wells for drainage, that they asserted have permanently damaged the freshwater lens (convex layer of groundwater on top of a layer of denser saltwater) in the Florida Keys. These alterations and sea level rise have permanently changed the natural lens and the amount of freshwater available to these species, particularly in times of drought or following a major hurricane event.

Our Response: The Service acknowledges the challenges faced by the Florida Keys due to salinization and sea level rise. These factors are discussed at length in this final rule under *Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence,* below. In addition, the Service agrees habitat loss or degradation is a factor that threatens *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* However, we disagree that habitat on Big Pine Key can no longer sustain these or other federally protected endangered species going forward. Canals, which occur throughout a large portion of Big Pine Key, have allowed saltwater intrusion into upland areas of the island for decades, threatening upland ecosystems. However, habitat restoration is ongoing across Big Pine Key, particularly within the pine rocklands and rockland hammocks. These restoration efforts are attempting to protect the freshwater lens required by native vegetation; this includes filling or plugging drainage canals to reduce or halt seawater intrusion into upland areas.

Summary of Changes From the Proposed Rule

None of the new information we received during the comment period on the proposed rule changes our determinations in this final rule for these four plants. Most of the changes are editorial in nature, and are described above in the **Background** section of this rule. However, based on comments we received from peer reviewers and the public, we make the following substantive changes:

- We update the status of several populations of *Linum arenicola* and *Argythamnia blodgettii;*
- We update the discussion of the taxonomy of *A. blodgettii* to take into consideration a recent publication; and
- We update our discussion of pesticide applications and pollinators to reflect current application limitations now in effect on Big Pine Key.

Summary of Factors Affecting the Species

The Act directs us to determine whether any species is an endangered species or a threatened species because of any one of five factors affecting its continued existence. In this section, we summarize the biological condition of each of the plant species and its resources, and the factors affecting them, to assess the species' overall viability and the risks to that viability.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Chamaecrista lineata var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* have experienced substantial destruction, modification, and curtailment of their habitats and ranges. Specific threats to these plants under this factor include habitat loss, fragmentation, and modification caused by development (*i.e.,* conversion to both urban and agricultural land uses) and inadequate fire management. Each of these threats and its specific effects on these plants are discussed in detail below.

Human Population Growth, Development, and Agricultural Conversion

The modification and destruction of the habitats that support *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* has been extreme in most areas of Miami-Dade and Monroe Counties, thereby reducing these plants' current ranges and abundance in Florida. The pine rocklands community of south Florida, in which all four plants primarily occur, is critically imperiled locally and globally (FNAI 2012, p. 27). Destruction of pine rocklands and rockland hammocks has occurred since the beginning of the 1900s. Extensive land clearing for human population growth, development, and agriculture in Miami-Dade and Monroe Counties has altered, degraded, or destroyed thousands of acres of these once abundant ecosystems.

In Miami-Dade County, development and agriculture have reduced pine rocklands habitat by 90 percent in mainland south Florida. Pine rocklands habitat decreased from approximately 74,000 hectares (ha) (183,000 acres (ac)) in the early 1900s, to only 8,140 ha (20,100 ac) in 1996 (Kernan and Bradley 1996, p. 2). The largest remaining intact pine rocklands (approximately 2,313 ha (5,716 ac)) is located on Long Pine Key in Everglades National Park (ENP). Outside of ENP, only about 1 percent of the pine rocklands on the Miami Rock Ridge have escaped clearing, and much of what is left are small remnants scattered throughout the Miami metropolitan area, isolated from other natural areas (Herndon 1998, p. 1).

Similarly, most of the pine rocklands in the Florida Keys (Monroe County) have been impacted (Hodges and Bradley 2006, p. 6). Pine rocklands historically covered 1,049 ha (2,592 ac) of Big Pine Key (Folk 1991, p. 188), the largest area of pine rocklands in the Florida Keys. Pine rocklands now cover approximately 582 ha (1,438 ac) of the island, a reduction of 56 percent (Bradley and Saha 2009, p. 3). There were no estimates of pine rocklands area on the other islands historically, but each contained much smaller amounts of the habitat than Big Pine Key. Remaining pine rocklands on Cudjoe Key cover 72 ha (178 ac), Little Pine has 53 ha (131 ac), No Name has 56 ha (138 ac), and Sugarloaf has 38 ha (94 ac). The total area of remaining pine rocklands in the Florida Keys is approximately 801 ha (1,979 ac). Currently, about 478 ha (1,181 ac) (82 percent) of the pine rocklands on Big Pine Key, and most of the pine rocklands on these other islands, are protected within the NKDR and properties owned by the Nature Conservancy, the State of Florida, and Monroe County (Bradley and Saha 2009, pp. 3–4). Based on the data presented above, the total remaining acreage of pine rocklands in Miami-Dade and Monroe Counties is now 8,981 ha (22,079 ac) (approximately 8,140 ha (20,100 ac) in Miami-Dade County, and 801 ha (1,979 ac) in the Florida Keys (Monroe County)).

The marl prairies that also support *Linum arenicola* have similarly been destroyed by the rapid development of Miami-Dade and Monroe Counties. At least some of the occurrences reported from this habitat may be the result of colonization that occurred after they were artificially dried-out due to local or regional drainage.

Likewise, habitat modification and destruction from residential and commercial development have severely impacted rockland hammocks, and coastal berm, that support *Argythamnia blodgettii.* Rockland hammocks were once abundant in Miami-Dade and Monroe Counties but are now considered imperiled locally and globally (FNAI 2010x, pp. 24–26). The tremendous development and agricultural pressures in south Florida have resulted in significant reductions of rockland hammock, which is also susceptible to fire, frost, hurricane damage, and groundwater reduction (Phillips 1940, p. 167; Snyder *et al.* 1990, pp. 271–272; FNAI 2010, pp. 24–26).

Pine rocklands, rockland hammock, marl prairie, and coastal habitats on private land remain vulnerable to development, which could lead to the loss of populations of these four species. As noted earlier, all four plants have been impacted by development. The sites of Small's 1907 and 1911 *L. arenicola* collections in Miami-Dade County are now agricultural fields (Kernan and Bradley 1996, p. 4). A pine rocklands site that supported *L. arenicola* on Vistalmar Street in Coral Gables (Miami-Dade County) was cleared and developed in 2005, as part of the growing the Cocoplum housing development. A second pine rocklands site that supported *L. arenicola,* located on private land on Old Cutler Road, was developed into the Palmetto Bay Village Center. *L. arenicola* has not been observed at either site since they were developed. A former marl prairie site supporting a sizable population of *L. arenicola* near Old Cutler Road and Allapatah Drive (SW 112 Ave) in Miami-Dade County was extirpated when the site was developed in the 1990s (Bradley and van der Heiden 2013, pp. 6–12, 19). The Boca Chica Key population of *L. arenicola* was also likely lost due to development (Hodges and Bradley 2006, p. 48).

Bradley and Gann (1999, p. 6) list 12 populations of *Argythamnia blodgettii* in Miami-Dade County that were lost when the site that supported them was developed. An *A. blodgettii* population on Key West was likely lost due to the near complete urbanization of the island (Hodges and Bradley 2006, p. 43). Any development related to the Boy Scout camp on Big Munson Island is a potential threat to the largest population *A. blodgettii*.

The largest *Linum arenicola* population in Miami-Dade County is located on property owned by the Miami-Dade County Homeless Trust. U.S. Special Operations Command South Headquarters (SOCSOUTH), a unified command of all four services of DOD, has entered into a 50-year agreement with Miami-Dade County to lease this 90-ac (36.4-ha) area, where they are building a permanent headquarters on approximately 28 ac (11.3 ha) (DOD 2009, p. 1). As stated above, the population of *L. arenicola* is spread across the site and was estimated at 74,000 plants in 2009 (Bradley 2009, p. 3). In consultation with the Service, the DOD developed a plan that avoided the majority of the population with accompanying protection and management of approximately 57,725 individuals of sand flax (about 78 percent of the estimated onsite population) (Service 2011, p. 13). The plan will manage 5.95 ha (14.7 ac) of habitat, though most of it is scraped, and only a small portion has a pine canopy (Van der Heiden and Johnson 2013, p. 2). An additional 1.3 ha (3.2 ac) is being managed and supports 13,184 individuals of sand flax (about 18 percent of the estimated onsite population) (Service 2011, p. 13).

Currently there are plans to develop a 55-ha (137-ac) privately-owned portion of the largest remaining area of pine rocklands habitat in Miami-Dade County, the Richmond pine rocklands, with a shopping center and residential construction (RAM 2014, p. 2). Bradley and Gann (1999, p. 4) called the 345-ha (853-ac) Richmond pine rocklands, "the largest and most important area of pine rockland in Miami-Dade County outside of Everglades National Park." Populations of *Argythamnia blodgettii* and *Linum arenicola,* along with numerous federally listed species, occur in habitat adjacent to the area slated for development. The Miami-Dade County Department of Regulatory and Economic Resources (RER) has completed a management plan for county-owned portions of the Richmond pine rocklands (Martinez Pineland Preserve, Larry and Penny Thompson Park) under a grant from the Service and is leading the restoration and management of these areas (Bradley and Gann 1999, p. 4). The developer has proposed to enter into a habitat conservation plan in conjunction with their plans to develop their portion of the site and was required by Miami-Dade County Natural Forest Community (NFC) regulations to set aside and manage 15 ha (39 ac) of pine rocklands and 2 ha (4 ac) of rockland hammock. A second project that would result in the loss of pine rocklands habitat is also proposed for the Richmond pine rocklands. It includes expanding the Miami Zoo complex to develop an amusement park and large retail mall.

Approximately 25 percent of extant *Linum arenicola* occurrences (3 of 12 sites), and 40 percent of extant *Argythamnia blodgettii* occurrences (14 of 35 sites), are located on private land; no extant populations of *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* are located entirely on private land. It is possible that the plants on private lands will be lost from most of these sites in the future with increased pressure from development and the other threats described below.

Argythamnia blodgettii is the only one of the four plant species that occurs in ENP, where a population of over 2,000 plants is stable, and prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis.

Most pine rocklands and rockland hammock habitat is now limited to public conservation lands, where future development and habitat alteration are less likely than on private lands. However, public lands could be sold off (or leased) in the future and become more likely to be developed or altered in a way that negatively impacts the habitat. For example, at the SOCSOUTH site noted above (leased to DOD by Miami-Dade County), ongoing development of headquarters buildings SOCSOUTH has resulted in the loss of *L. arenicola* and pine rocklands habitat (Bradley and van der Heiden 2013, pp. 8–10). Construction of visitor facilities such as parking lots, roads, trails, and buildings can result in habitat loss on public lands that are set aside as preserves or parks.

Roadside populations of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are vulnerable to habitat loss and modification stemming from infrastructure projects such as road widening, and installation of underground cable, sewer, and water lines. The Lower Sugarloaf Key population of *Linum arenicola* was impacted by repaving of the road, which placed asphalt on top of and adjacent to the population (Hodges and Bradley 2006, p. 41).

Although no entire populations of *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* have been extirpated by habitat loss due to development, the size and extent of these populations have been reduced on Big Pine Key (and surrounding islands for *Chamaecrista lineata* var. *keyensis*). The total area of pine rocklands on Big Pine Key has decreased by 56 percent from 1955 to the present (Bradley and Saha 2009, p. 3).

The human population within Miami-Dade County is currently greater than 2.4 million people, and is expected to grow to more than 4 million by 2060, an annual increase of roughly 30,000 people (Zwick and Carr 2006, p. 20). Overall, the human population in Monroe County is expected to increase from 79,589 to more than 92,287 people by 2060 (Zwick and Carr 2006, p. 21). All vacant land in the Florida Keys is projected to be developed by then, including lands currently inaccessible for development, such as islands not attached to the Overseas Highway (U.S. 1) (Zwick and Carr 2006, p. 14). However, in an effort to address the impact of development on federally listed species, Monroe County implemented a habitat conservation plan (HCP) for Big Pine and No Name Keys in 2006. In order to fulfill the HCP's mitigation requirements, the County has been actively acquiring parcels of high-quality pine rocklands, such as The Nature Conservancy's 20-acre Terrestris Tract on Big Pine Key, and managing them for conservation. Although the HCP has helped to limit the impact of development, land development pressure and habitat losses may resume when the HCP expires in 2023. If the HCP is not renewed, residential or commercial development could increase to pre-HCP levels.

While Miami-Dade and Monroe County both have developed a network of public conservation lands that include pine rocklands, rockland hammocks, marl prairies, and coastal habitats, much of the remaining habitat occurs on private lands as well as publicly owned lands not managed for conservation. Species occurrences and suitable habitat remaining on these lands are threatened by habitat loss and degradation, and threats are expected to accelerate with increased development. Further losses will seriously affect the four plant species' ability to persist in the wild and decrease the possibility of their recovery or recolonization.

Habitat Fragmentation

The remaining pine rocklands in the Miami metropolitan area are severely fragmented and isolated from each other by vast areas of development. Remaining pine rockland areas in the Florida Keys are fragmented and are located on small islands separated by ocean. Habitat fragmentation reduces the size of plant populations and increases spatial isolation of remnants. Barrios *et al.* (2011, p. 1062) investigated the effects of fragmentation on a pine rocklands plant, *Angadenia berteroi* (pineland golden trumpet), which is recognized by the State of Florida as threatened, and found that abundance and fragment size were positively related. Possley *et al.* (2008, p. 385) studied the effects of fragment size on species composition in south Florida pine rocklands, and found that plant species richness and fragment size were positively correlated (although some small fragments supported nearly as many species as the largest fragment). Composition of fragmented habitat typically differs from that of intact forests; as isolation and edge effects increase, there is increased abundance of disturbance-adapted species (weedy species; nonnative, invasive species) and lower rates of pollination and propagule dispersal (Laurence and Bierregaard 1997, pp. 347–350; Noss and Csuti 1997, pp. 284–299). The degree to which fragmentation threatens the dispersal abilities of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is unknown. In the historical landscape, where pine rocklands occurred within a mosaic of wetlands, water may have acted as a dispersal vector for all pine rocklands seeds. In the current, fragmented landscape, this type of dispersal would no longer be possible for any of the Miami-Dade populations. While additional dispersal vectors may include animals and (in certain locations) mowing equipment, it is likely that fragmentation has effectively reduced these plants' ability to disperse and exchange genetic material.

While pollination research has not been conducted for *Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* research regarding other species and ecosystems, including *Chamaecrista lineata* var. *keyensis* (discussed below), provides valuable information regarding potential effects of fragmentation on these plants. Effects of fragmentation on pollinators may include changes to the pollinator community as a result of limitation of pollinator-required resources (*e.g.*, reduced availability of rendezvous plants, nesting and roosting sites, and nectar/pollen); these changes may include changes to pollinator community composition, species abundance and diversity, and pollinator behavior (Rathcke and Jules 1993, pp. 273–275; Kremen and Ricketts 2000, p. 1227; Harris and Johnson 2004, pp. 30–33). As a result, plants in fragmented habitats may experience lower visitation rates, which in turn may result in reduced seed production of the pollinated plant (which may lead to reduced seedling recruitment), reduced pollen dispersal, increased inbreeding, reduced genetic variability, and ultimately reduced population viability (Rathcke and Jules 1993, p. 275; Goverde *et al.* 2002, pp. 297–298; Harris and Johnson 2004, pp. 33–34).

In addition to affecting pollination, fragmentation of natural habitats often alters other ecosystems' functions and disturbance regimes. Fragmentation results in an increased proportion of "edge" habitat, which in turn has a variety of effects, including changes in microclimate and community structure at various distances from the edge (Margules and Pressey 2000, p. 248), altered spatial distribution of fire (greater fire frequency in areas nearer the edge) (Cochrane 2001, pp. 1518–1519), and increased pressure from nonnative, invasive plants and animals that may out-compete or disturb native plant populations. Liu and Koptur (2003, p. 1184) reported decreases in *Chamaecrista lineata* var. *keyensis*'s seed production in urban areas of Big Pine Key due to increased seed predation, compared with areas away from development.

The effects of fragmentation on fire go beyond edge effects and include reduced likelihood and extent of fires, and altered behavior and characteristics (*e.g.*, intensity) of those fires that do occur. Habitat fragmentation encourages the suppression of naturally occurring fires, and has prevented fire from moving across the landscape in a natural way, resulting in an increased amount of habitat suffering from these negative impacts. High fragmentation of small habitat patches within an urban matrix discourages the use of prescribed fire as well due to logistical difficulties (see "Fire Management," below). Forest fragments in urban settings are also subject to increased likelihood of certain types of human-related disturbance, such as the dumping of trash (Chavez and Tynon 2000, p. 405). The many effects of habitat fragmentation may work in concert to threaten the local persistence of a species; when a species' range of occurrence is limited, threats to local persistence increase extinction risk.

Fire Management

One of the primary threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is habitat modification and degradation through inadequate fire management, which includes both the lack of prescribed fire and suppression of natural fires. Where the term "fire-suppressed" is used below, it describes degraded pine rocklands conditions resulting from a lack of adequate fire (natural or prescribed) in the landscape. Historically, frequent (approximately twice per decade), lightning-induced fires were a vital component in maintaining native vegetation and ecosystem functioning within south Florida pine rocklands. A period of just 10 years without fire may result in a marked decrease in the number of herbaceous species due to the effects of shading and litter accumulation (FNAI 2010, p. 63). Exclusion of fire for approximately 25 years will likely result in gradual hammock development over that time period, leaving a system that is very fire-resistant if additional pre-fire management (*e.g.*, mechanical hardwood removal) is not undertaken.

Today, natural fires are unlikely to occur or are likely to be suppressed in the remaining, highly fragmented pine rocklands habitat. The suppression of natural fires has reduced the size of the areas that burn, and habitat fragmentation has prevented fire from moving across the landscape in a natural way. Without fire, successional climax from pine rocklands to rockland hammock is rapid, and displacement of native species by invasive, nonnative plants often occurs. Understory plants such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are shaded out by hardwoods and nonnatives alike. Shading may also be caused by a fire-suppressed pine canopy that has evaded the natural thinning effects that fire has on seedlings and smaller trees. Whether the dense canopy is composed of pine, hardwoods, nonnatives, or a combination, seed germination and establishment are inhibited in fire-suppressed habitat due to accumulated leaf litter, which also changes soil moisture and nutrient availability (Hiers *et al.* 2007, pp. 811–812). This alteration to microhabitat can also inhibit seedling establishment as well as negatively influence flower and fruit production (Wendelberger and Maschinski 2009, pp. 849–851), thereby reducing sexual reproduction in fire-adapted species such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, L. arenicola,* and *A. blodgettii* (Geiger 2002, pp. 78–79, 81–83).

After an extended period of inadequate fire management in pine rocklands, it becomes necessary to control invading native hardwoods mechanically, as excess growth of native hardwoods would result in a hot fire, which can kill mature pines. Mechanical treatments cannot entirely replace fire because pine trees, understory shrubs, grasses, and herbs all contribute to an ever-increasing layer of leaf litter, covering herbs and preventing germination, as discussed above. Leaf litter will continue to accumulate even if hardwoods are removed mechanically. In addition, the ashes left by fires provide important post-fire nutrient cycling, which is not provided via mechanical removal.

Federal (Service, NPS, FFS (Florida Forest Service)), State (FDEP, FWC), and County land managers (Miami-Dade RER and NAM (the Natural Areas Management division of Department of Parks, Recreation and Open Spaces), and nonprofit organizations (Institute for Regional Conservation (IRC), The Nature Conservancy (TNC)) implement prescribed fire on public and private lands within the ranges of these four plants. While management of some County conservation lands includes regular burning, other lands remain severely fire-suppressed. Even in areas under active management, some portions are typically fire-suppressed.

Miami-Dade County: Implementation of a prescribed fire program in Miami-Dade County has been hampered by a shortage of resources, as well as by logistical difficulties and public concern related to burning next to residential areas. Many homes have been built in a mosaic of pine rocklands, so the use of prescribed fire in many places has become complicated because of potential danger to structures and smoke generated from the burns. Nonprofit organizations such as IRC have similar difficulties in conducting prescribed burns due to difficulties with permitting and obtaining the necessary permissions as well as hazard insurance limitations (Gann 2013a, pers. comm.). Few private landowners have the means or desire to implement prescribed fire on their property, and doing so in a fragmented urban environment is logistically difficult and may be costly.

All occurrences of *Linum arenicola* and *Argythamnia blodgettii* in Miami-Dade County are affected by some degree of inadequate fire management of pine rocklands and marl prairie habitat, with the primary threat being the modification and loss of habitat due to an increase in shrub and hardwood dominance, eliminating suitable conditions for the four plants, and eventual succession to rockland hammock.

In Miami-Dade County, *Linum arenicola* occurred along the south edge of Bauer Drive on the northern border of a pine rockland owned by Miami-Dade County. The property is occupied by a communications tower, and is not a managed preserve. Kernan and Bradley (1996) reported eight plants. At the time (1992 through 1996), the road shoulder was dominated by native grasses. Since then, native canopy hardwoods have invaded the site and eliminated the sunny conditions required by *L. arenicola*. It has not been seen since, despite multiple surveys between 1997 and 2012, and is considered to be extirpated. *L. arenicola* was discovered at Camp Owaissa Bauer by George N. Avery in 1983. Since that time, the pine rocklands habitat where he found the plants in the park suffered extremely heavy hardwood recruitment due to fire suppression. Despite recent hardwood control and reintroduction of fire, no plants have been relocated. Bradley and Gann (1999, pp. 71–72) suggested that the lack of fires in most forest fragments in Miami-Dade County during the last century may be one of the reasons why *L. arenicola* occurs primarily in disturbed areas.

Monroe County (Florida Keys): Fire management of pine rocklands of the lower Florida Keys, most of which are within NKDR, is hampered by a shortage of resources, technical challenges, and expense of conducting prescribed fire in a matrix of public and private ownership. Residential and commercial properties are embedded within or in close proximity to pine rocklands habitat (Snyder *et al.* 2005, p. 2; C. Anderson 2012a, pers. comm.). As a result, hand or mechanical vegetation management may be necessary at select locations on Big Pine Key (Emmel *et al.* 1995, p. 11; Minno 2009, pers. comm.; Service 2010, pp. 1–68) to maintain or restore pine rocklands. Mechanical treatments may be less beneficial than fire because they do not quickly convert debris to nutrients, and remaining leaf litter may suppress seedling development; fire has also been found to stimulate seedling germination (C. Anderson 2010, pers. comm.). Because mechanical treatments may not provide the same ecological benefits as fire, NKDR continues to focus efforts on conducting prescribed fire where possible (C. Anderson 2012a, pers. comm.). However, the majority of pine rocklands within NKDR are several years behind the ideal fire return interval (5–7 years) suggested for this ecosystem (Synder *et al.* 2005, p. 2; Bradley and Saha 2011, pp. 1–16). Tree ring and sediment data show that pine rocklands in the lower Keys have burned at least every 5 years and sometimes up to three times per decade historically (Albritton 2009, p. 123; Horn *et al.* 2013, pp. 1–67; Harley 2012, pp. 1–246). From 1985 to 1992, prescribed burns were conducted in the NKDR mainly for fuel reduction. There was no prescribed burning by Service staff in the NKDR from 1992–1997, in part because not enough was known about the ecological effects of prescribed fire in this system (Snyder *et al.* 1990, p. 2).

All occurrences of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* in the Florida Keys are affected by some degree of inadequate fire management of pine rocklands habitat, with the primary threat being the modification and loss of habitat due to an increase in shrub and hardwood dominance, eliminating suitable conditions for the four plants, and eventual succession to rockland hammock.

Prescribed fire management over the past decade has not been sufficient to reverse long-term declines in *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* or *Linum arenicola* on Big Pine Key. Prescribed fire activity on Big Pine Key and adjacent islands within NKDR appears to be insufficient to prevent loss of pine rocklands habitat (Carlson *et al.* 1993, p. 914; Bergh and Wisby 1996, pp. 1–2; O'Brien 1998, p. 209; Bradley and Saha 2009, pp. 28–29; Bradley *et al.* 2011, pp. 1–16). As a result, many of the pine rocklands across NKDR are being compromised by succession to rockland hammock (Bradley and Saha 2009, pp. 28–29; Bradley *et al.* 2011, pp. 1–16).

Conservation Efforts To Reduce the Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

Miami-Dade County Environmentally Endangered Lands (EEL) Covenant Program: In 1979, Miami-Dade County enacted the Environmentally Endangered Lands (EEL) Covenant Program, which reduces taxes for private landowners of natural forest communities (NFCs; pine rocklands and tropical hardwood hammocks) who agree not to develop their property and manage it for a period of 10 years, with the option to renew for additional 10-year periods (Service 1999, p. 3–177). Although these temporary conservation easements provide valuable protection for their duration, they are not considered under the discussion of Factor D, below, because they are voluntary agreements and not regulatory in nature. Miami-Dade County currently has approximately 59 pine rocklands properties enrolled in this program, preserving 69.4 ha (172 ac) of pine rocklands habitat (Johnson 2012, pers. comm.). The program also has approximately 21 rockland hammocks properties enrolled in this program, preserving 20.64 ha (51 ac) of rockland hammock habitat (Joyner 2013b, pers. comm.). The vast majority of these properties are small, and many are in need of habitat management such as prescribed fire and removal of nonnative, invasive plants. Thus, while EEL covenant lands have the potential to provide valuable habitat for these plants and reduce threats in the near term, the actual effect of these conservation lands is largely determined by whether individual landowners follow prescribed EEL management plans and NFC regulations (see "Local" under Factor D discussion, below).

Fee Title Properties: In 1990, Miami-Dade County voters approved a 2-year property tax to fund the acquisition, protection, and maintenance of natural areas by the EEL Program. The EEL Program purchases and manages natural lands for preservation. Land uses deemed incompatible with the protection of the natural resources are prohibited by current regulations; however, the County Commission ultimately controls what may happen with any County property, and land use changes may occur over time (Gil 2013b, pers. comm.). To date, the Miami-Dade County EEL Program has acquired a total of approximately 313 ha (775 ac) of pine rocklands, and 95 ha (236 ac) of rockland hammocks (Guerra 2015, pers. comm.; Gil 2013b, pers. comm.). The EEL Program also manages approximately 314 ha (777 ac) of pine rocklands, and 639 ha (1,578 ac) of tropical hardwood and rockland hammocks owned by the Miami-Dade County Parks, Recreation and Open Spaces Department, including some of the largest remaining areas of pine rocklands habitat on the Miami Rock Ridge outside of ENP (*e.g.,* Larry and Penny Thompson Park, Zoo Miami pinelands, Navy Wells Pineland Preserve), and some of the largest remaining areas of tropical hardwood and rockland hammocks (*e.g.,* Matheson Hammock Park, Castellow Hammock Park, Deering Estate Park and Preserves).

Conservation efforts in Miami's EEL Preserves have been underway for many years. In Miami-Dade County, conservation lands are and have been monitored by Fairchild Tropical Botanic Garden (FTBG) and IRC, in coordination with the EEL Program, to assess habitat status and determine any changes that may pose a threat to or alter the abundance of these species. Impacts to habitat (*e.g.,* canopy) via nonnative species and natural stochastic events are monitored and actively managed in areas where the taxon is known to occur. These programs are long-term and ongoing in Miami-Dade County; however, programs are limited by the availability of annual funding.

Since 2005, the Service has funded IRC to facilitate restoration and management of privately owned pine rocklands habitats in Miami-Dade County. These programs included prescribed burns, nonnative plant control, light debris removal, hardwood management, reintroduction of pines where needed, and development of management plans. One of these programs, called the Pine Rockland Initiative, includes 10-year cooperative agreements between participating landowners and the Service/IRC to ensure restored areas will be managed appropriately during that time. Although most of these objectives have been achieved, IRC has not been able to conduct the desired prescribed burns, due to logistical difficulties as discussed earlier (see "Fire Management," above).

Connect to Protect Program: FTBG, with the support of various Federal, State, and local agencies and nonprofit organizations, has established the "Connect to Protect Network." The objective of this program is to encourage widespread participation of citizens to create corridors of healthy pine rocklands by planting stepping stone gardens and rights-of-way with native pine rocklands species, and restoring isolated pine rocklands fragments. By doing this, FTBG hopes to increase the probability that pollination and seed dispersal vectors can find and transport seeds and pollen across developed areas that separate pine rocklands fragments to improve gene flow between fragmented plant populations and increase the likelihood that these plants will persist over the long term. Although these projects may serve as valuable components toward the conservation of pine rocklands species and habitat, they are dependent on continual funding, as well as participation from private landowners, both of which may vary through time.

National Wildlife Refuges: The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd note) and the Fish and Wildlife Service Manual (601 FW 3, 602 FW 3) require maintaining biological integrity and diversity, require comprehensive conservation planning for each refuge, and set standards to ensure that all uses of refuges are compatible with their purposes and the Refuge System's wildlife conservation mission. The comprehensive conservation plans (CCPs) address conservation of fish, wildlife, and plant resources and their related habitats, while providing opportunities for compatible wildlife-dependent recreation uses. An overriding consideration reflected in these plans is that fish and wildlife conservation has first priority in refuge management, and that public use be allowed and encouraged as long as it is compatible with, or does not detract from, the Refuge System mission and refuge purpose(s). The CCP for the Lower Florida Keys National Wildlife Refuges (NKDR, Key West National Wildlife Refuge, and Great White Heron National Wildlife Refuge) provides a description of the environment and priority resource issues that were considered in developing the objectives and strategies that guide management over the next 15 years. The CCP promotes the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, especially imperiled species that are found only in the Florida Keys. The CCP also provides for obtaining baseline data and monitoring indicator species to detect changes in ecosystem diversity and integrity related to climate change. The CCP provides specifically for maintaining and expanding populations of candidate plant species, including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* all four of which are found in this refuge complex.

Department of Defense Lands: The Sikes Act requires the DOD to develop and implement integrated natural resources management plans (INRMPs) for military installations across the United States (see also Factor D discussion, below). INRMPs are prepared in cooperation with the Service and State fish and wildlife agencies to ensure proper consideration of fish, wildlife, and habitat needs. The DOD has an approved INRMP for Key West Naval Air Station (KWNAS) on Boca Chica Key that includes measures that will protect and enhance *Argythamnia blodgettii* habitat, including nonnative species control (DOD 2014, p. 69). Furthermore, DOD is currently preparing an INRMP for Homestead Air Reserve Base (HARB) and SOCSOUTH. A previous biological opinion (Service 2011, entire) required SOCSOUTH to protect and manage 7.4 ha (18.3 ac) of pine rocklands habitat and 70,909 individuals of *Linum arenicola* (approximately 96 percent of the estimated onsite population) based on 2009 survey data. A conservation easement was established over the protected areas, and DOD has provided funds for management of the site, including fencing and nonnative species control.

Summary of Factor A

We have identified a number of threats to the habitat of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* that have operated in the past, are impacting these species now, and will continue to impact them in the future. Habitat loss, fragmentation, and degradation, and associated pressures from increased human population, are major threats; these threats are expected to continue, placing these plants at greater risk. All four plants may be impacted when pine rocklands are converted to other uses or when lack of fire causes the conversion to hardwood hammocks or other unsuitable habitat conditions. Any populations of these species found on private property could be destroyed by development; the limited pine rocklands, rockland hammock, and coastal berm habitat on public lands can also be affected by development of recreational facilities or infrastructure projects. Although efforts are being made to conserve publicly and privately owned natural areas and apply prescribed fire, the long-term effects of large-scale and wide-ranging habitat modification, destruction, and curtailment will last into the future, while ongoing habitat loss due to population growth, development, and agricultural conversion continues to pose a threat. Therefore, based on the best information available, we have determined that the threats to the four plants from habitat destruction, modification, or curtailment are occurring throughout the entire range of the species and are expected to continue into the future.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The best available data do not indicate that overutilization for commercial, recreational, scientific, or educational purposes is a threat to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii.* Threats to these plants related to other aspects of recreation and similar human activities (*i.e.,* not related to overutilization) are discussed under Factor E, below.

Factor C. Disease or Predation

No diseases or incidences of predation have been reported for *Chamaesyce deltoidea* ssp. *serpyllum* or *Argythamnia blodgettii.*

Key deer are known to occasional browse plants indiscriminately, including *Chamaecrista lineata* var. *keyensis* and *Linum arenicola.* Key deer do not appear to feed on *Argythamnia blodgettii,* probably due to potential toxicity (Hodges and Bradley 2006, p. 19).

Seed predation by an insect occurs in *Chamaecrista lineata* var. *keyensis,* and seems to be exacerbated by habitat fragmentation. Individuals at the urban edge suffer higher insect seed predation than those inside the forest (Liu and Koptur 2003, p. 1184).

While seed predation and occasional Key deer browsing may be a stressor, they do not appear to rise to the level of threat at this time. Therefore, the best available data do not indicate that disease or predation is a threat to *Chamaecrista lineata* var. *keyensis* or *Linum arenicola.*

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether threats to these plants are discussed under the other factors are continuing due to an inadequacy of an existing regulatory mechanism. Section 4(b)(1)(A) of the Act requires the Service to take into account "those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species." In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in threat analyses under the other four factors, or otherwise enhance conservation of the species. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations. Examples are State governmental actions enforced under a State statute or constitution, and Federal actions authorized by statute.

Having evaluated the impact of the threats as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats. In this section, we review existing Federal, State, and local regulatory mechanisms to determine whether they effectively reduce or remove threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.*

Federal

As Federal candidate species, the four plants are afforded some protection through sections 7 and 10 of the Act and associated policies and guidelines. Service policy requires that candidate species be treated as proposed species for purposes of intra-Service consultations and conferences where the Service's actions may affect candidate species. Other Federal action agencies (*e.g.,* NPS) are to consider the potential effects (*e.g.,* prescribed fire, pesticide treatments) to these plants and their habitat during the consultation and conference process. Applicants and Federal action agencies are encouraged to consider candidate species when seeking incidental take for other listed species and when developing habitat conservation plans. However, candidate species do not receive the same level of protection that a listed species does under the Act.

Populations of *Argythamnia blodgettii* within ENP are protected by NPS regulations at 36 CFR 2.1, which prohibit visitors from harming or removing plants, listed or otherwise, from ENP. However, the regulations do not address actions taken by NPS that cause habitat loss or modification.

As discussed above under Factor A, the CCPs for the Lower Florida Keys National Wildlife Refuge and the Crocodile Lake National Wildlife Refuge provide for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii. Linum arenicola* occurs on DOD lands at HARB and SOCSOUTH. *L. arenicola* and *A. blodgettii* may occur on Federal lands within the Richmond Pine rocklands, including lands owned by the U.S. Coast Guard.

As discussed under Factor A, above, the DOD has an approved INRMP for KWNAS on Boca Chica Key that includes measures that will protect and enhance *Argythamnia blodgettii* habitat, including nonnative species control (DOD 2014, p. 69). Furthermore, as also discussed above, DOD is currently preparing an INRMP for HARB and SOCSOUTH, and a 2011 Service biological opinion requires SOCSOUTH to protect and manage 7.4 ha (18.3 ac) of pine rocklands habitat and 70,909 individuals of *Linum arenicola.*

However, certain populations of the four plants occur on State- or county-owned properties, and development of these areas will likely require no Federal permit or other authorization. Therefore, projects that affect the plants on State- and county-owned lands do not have Federal oversight, such as complying with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), unless the project has a Federal nexus (Federal funding, permits, or other authorizations). Therefore, the four plants have no direct Federal regulatory protection in these areas.

State

Chamaecrista lineata var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are listed on the Regulated Plant Index (Index) as endangered under chapter 5B–40, Florida Administrative Code. This listing provides little or no habitat protection beyond the State's development of a regional impact process, which discloses impacts from projects, but provides only limited regulatory protection for State-listed plants on private lands.

Florida Statutes 581.185 sections (3)(a) and (3)(b) prohibit any person from willfully destroying or harvesting any species listed as endangered or threatened on the Index, or growing such a plant on the private land of another, or on any public land, without first obtaining the written permission of the landowner and a permit from the Florida Department of Plant Industry. The statute further provides that any person willfully destroying or harvesting; transporting, carrying, or conveying on any public road or highway; or selling or offering for sale any plant listed in the Index as endangered must have a permit from the State at all times when engaged in any such activities. Further, Florida Statutes 581.185 section (10) provides for consultation similar to section 7 of the Act for listed species, by requiring the Department of Transportation to notify the Florida Department of Agriculture and Consumer Services and the Endangered Plant Advisory Council of planned highway construction at the time bids are first advertised, to facilitate evaluation of the project for listed plant populations, and to provide "for the appropriate disposal of such plants" (*i.e.,* transplanting).

However, this statute provides no substantive protection of habitat or protection of potentially suitable habitat at this time. Florida Statutes 581.185 section (8) waives State regulation for certain classes of activities for all species on the Index, including the clearing or removal of regulated plants for agricultural, forestry, mining, construction (residential, commercial, or infrastructure), and fire-control activities by a private landowner or his or her agent.

Local

In 1984, section 24–49 of the Code of Miami-Dade County established regulation of County-designated NFCs. These regulations were placed on specific properties throughout the County by an act of the Board of County Commissioners in an effort to protect environmentally sensitive forest lands. The Miami-Dade County RER has regulatory authority over these County-designated NFCs and is charged with enforcing regulations that provide partial protection of remaining upland forested areas designated as NFC on the Miami Rock Ridge. NFC regulations are designed to prevent clearing or destruction of native vegetation within preserved areas. Miami-Dade County Code typically allows up to 20 percent of pine rocklands designated as NFC to be developed, and requires that the remaining 80 percent be placed under a perpetual covenant. The code requires that no more than 10 percent of a rockland hammock designated as NFC may be developed for properties greater than 5 acres and that the remaining 90 percent be placed under a perpetual covenant for preservation purposes (Joyner 2013a, 2014, pers. comm.; Lima 2014, pers. comm.). However, for properties less than 5 acres, up to one-half an acre may be cleared if the request is deemed a reasonable use of property; this allowance often may be greater than 20 percent (for pine rocklands) or 10 percent (for rockland hammock) of the property (Lima 2014, pers. comm.). NFC landowners are also required to obtain an NFC permit for any work, including removal of nonnatives within the boundaries of the NFC on their property. When RER discovers unpermitted work, it takes appropriate enforcement action and seeks restoration when possible. The NFC program is responsible for ensuring that NFC permits are issued in accordance with the limitations and requirements of the county code and that appropriate NFC preserves are established and maintained in conjunction with the issuance of an NFC permit when development occurs. The NFC program currently regulates approximately 600 pine rocklands or pine rocklands/hammock properties, comprising approximately 1,200 ha (3,000 ac) of habitat (Joyner 2013, pers. comm.).

Although the NFC program is designed to protect rare and important upland (non-wetlands) habitats in south Florida, the strategy has limitations. For example, in certain circumstances where landowners can demonstrate that limiting development to 20 percent (for pine rocklands) or 10 percent (for rockland hammock) does not allow for "reasonable use" of the property, additional development may be approved. Furthermore, Miami-Dade County Code provides for up to 100 percent of the NFC to be developed in limited circumstances for parcels less than 2.02 ha (5 ac) in size and only requires coordination with landowners if they plan to develop property or perform work within the NFC-designated area. Therefore, many of the existing private forested NFC parcels remain fragmented, without management obligations or preserve designation, as development has not been proposed at a level that would trigger the NFC regulatory requirements. Often, nonnative vegetation over time begins to dominate and degrade the undeveloped and unmanaged NFC landscape until it no longer meets the legal threshold of an NFC, which applies only to land dominated by native vegetation. When development of such degraded NFCs is proposed, Miami-Dade County Code requires delisting of the degraded areas as part of the development process. Property previously designated as NFC is removed from the list even before development is initiated because of the abundance of nonnative species, making it no longer considered to be jurisdictional or subject to the NFC protection requirements of Miami-Dade County Code (Grossenbacher 2013, pers. comm.).

Summary of Factor D

Currently, *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are found on Federal, State, and county lands; however, there is no regulatory mechanism in place that provides substantive protection of habitat or protection of potentially suitable habitat at this time. NPS and Service Refuge regulations provide protection at ENP and the Florida Keys Wildlife Refuge Complex, respectively. The Act provides some protection for candidate species on National Wildlife Refuges and during intra-Service section 7 consultations. State regulations provide protection against trade, but allow private landowners or their agents to clear or remove species on the Florida Regulated Plant Index. State Park regulations provide protection for plants within Florida State Parks. The NFC program in Miami is designed to protect rare and important upland (non-wetlands) habitats in south Florida; however, this regulatory strategy has several limitations (as described above) that reduce its ability to protect the four plants and their habitats.

Although many populations of the four plants are afforded some level of protection because they are on public conservation lands, existing regulatory mechanisms have not led to a reduction or removal of threats posed to these plants by a wide array of sources (see discussions under Factor A, above, and Factor E, below).

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other natural or manmade factors affect *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* to varying degrees. Specific threats to these plants included in this factor consist of the spread of nonnative, invasive plants; potentially incompatible management practices (such as mowing and herbicide use); small population size and isolation; effects of pesticide spraying on pollinators; climate change and sea level rise (SLR); and risks from environmental stochasticity (extreme weather) on these small populations. Each of these threats and its specific effect on these plants is discussed in detail below.

Nonnative Plant Species

Nonnative, invasive plants compete with native plants for space, light, water, and nutrients, and make habitat conditions unsuitable for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* which prefer open conditions. Bradley and Gann (1999, pp. 13, 71–72) indicated that the control of nonnative plants is one of the most important conservation actions for these plants and a critical part of habitat maintenance.

Nonnative plants have significantly affected pine rocklands, and threaten all occurrences of these four species to some degree (Bradley 2006, pp. 25–26; Bradley and Gann 1999, pp. 18–19; Bradley and Saha 2009, p. 25; Bradley and van der Heiden 2013, pp. 12–16). As a result of human activities, at least 277 taxa of nonnative plants have invaded pine rocklands throughout south Florida (Service 1999, p. 3–175). *Neyraudia neyraudia* (Burma reed) and *Schinus terebinthifolius* (Brazilian pepper) threaten all four species (Bradley and Gann 1999, pp. 13, 72). *S. terebinthifolius,* a nonnative tree, is the most widespread and one of the most invasive species. It forms dense thickets of tangled, woody stems that completely shade out and displace native vegetation (Loflin 1991, p. 19; Langeland and Craddock Burks 1998, p. 54). *Acacia auriculiformis* (earleaf acacia), *Rhynchelytrum repens* (natal grass), *Lantana camara* (shrub verbena), and *Albizia lebbeck* (tongue tree) are some of the other nonnative species in pine rocklands. More species of nonnative plants could become problems in the future, such as *Lygodium microphyllum* (Old World climbing fern), which is a serious threat throughout south Florida. Nonnative plants in pine rocklands can also affect the characteristics of a fire when it does occur. Historically, pine rocklands had an open, low understory where natural fires remained patchy with low temperature intensity, thus sparing many native plants such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* Dense infestations of *Neyraudia neyraudia* and *Schinus terebinthifolius* cause higher fire temperatures and longer burning periods. With the presence of invasive, nonnative species, it is uncertain how fire, even under a managed situation, will affect these plants.

At least 162 nonnative plant species are known to invade rockland hammocks; impacts are particularly severe on the Miami Rock Ridge (Service 1999, pp. 3–135). Nonnative plant species have significantly affected rockland hammocks where *Argythamnia blodgettii* occurs and are considered one of the threats to the species (Snyder *et al.* 1990, p. 273; Hodges and Bradley 2006, p. 14). In many Miami-Dade County parks, nonnative plant species comprise 50 percent of the flora in hammock fragments (Service 1999, pp. 3–135). Horvitz (*et al.* 1998, p. 968) suggests the displacement of native species by nonnative species in conservation and preserve areas is a complex problem with serious impacts to biodiversity conservation, as management in these areas generally does not protect native species and ecological processes, as intended. Problematic nonnative, invasive plants associated with rockland hammocks include *Leucaena leucocephala* (lead tree), *Schinus terebinthifolius, Bischofia javanica* (bishop wood), *Syngonium podophyllum* (American evergreen), *Jasminum fluminense* (Brazilian jasmine), *Rubus niveus* (mysore raspberry), *Nephrolepis brownii* (Asian swordfern), *Schefflera actinophylla* (octopus tree), *Jasminum dichotomum* (Gold Coast jasmine), *Epipremnum pinnatum* (centipede tongavine), and *Nephrolepis cordifolia* (narrow swordfern) (Possley 2013h–i, pers. comm.).

Management of nonnative, invasive plants in pine rocklands and rockland hammocks in Miami-Dade County is further complicated because the vast majority of pine rocklands and rockland hammocks are small, fragmented areas bordered by urban development. In the Florida Keys, larger fragments are interspersed with development. Developed or unmanaged areas that contain nonnative species can act as a seed source for nonnatives, allowing them to continue to invade managed pine rocklands or rockland hammocks (Bradley and Gann 1999, p. 13).

Nonnative plant species are also a concern on private lands, where often these species are not controlled due to associated costs, lack of interest, or lack of knowledge of detrimental impacts to the ecosystem. Undiscovered populations of the four plants on private lands could certainly be at risk. Overall, active management is necessary to control for nonnative species and to protect unique and rare habitats where the four plants occur (Snyder *et al.* 1990, p. 273).

Management of Roadsides and Disturbed Areas

All four plants occur in disturbed areas such as roadsides and areas that formerly were pine rocklands. *Linum arenicola* is particularly vulnerable to management practices in these areas because nearly all populations of the species are currently found on disturbed sites. The large *L. arenicola* population at HARB and SOCSOUTH is located largely in areas that are regularly mowed. Similarly, the small population of *L. arenicola* at the Everglades Archery Range, which is owned by Miami-Dade County and managed as a part of Camp Owaissa Bauer, is growing along the edges of the unimproved perimeter road that is regularly mowed. Finally, the two populations of *L. arenicola* on canal banks are subject to mowing, herbicide treatments, and revegetation efforts (sodding) (Bradley and van der Heiden 2013, pp. 8–10). The population of *Argythamnia blodgettii* at Lignumvitae Key Botanical State Park grows around the perimeter of the large lawn around the residence. Maintenance activities and encroachment of exotic lawn grasses are potential threats to this population (Hodges and Bradley 2006, p. 14). At Windley Key State Park, *A. blodgettii* grows in two quarry bottoms. In the first, larger quarry, to the east of the visitor center, plants apparently persist only in natural areas not being mowed. However, the majority of the plants are in the farthest quarry, which is not mowed (Hodges and Bradley 2006, p. 15).

While no studies have investigated the effect of mowing on the four plants, research has been conducted on the federally endangered *Linum carteri* var. *carteri* (Carter's small-flowered flax, a close relative of *Linum arenicola* that also occurs in pine rocklands and disturbed sites). The study found significantly higher densities of plants at the mown sites where competition with other plants is decreased (Maschinski and Walters 2007, p. 56). However, plants growing on mown sites were shorter, which may affect fruiting magnitude. While mowing did not usually kill adult plants, if mowing occurred prior to plants reaching reproductive status, it could delay reproduction (Maschinski and Walters 2007, pp. 56–57). If such mowing occurs repeatedly, reproduction of those plants would be entirely eliminated. If, instead, mowing occurs at least 3 weeks after flowering, there would be a higher probability of adults setting fruit prior to mowing; mowing may then act as a positive disturbance by both scattering seeds and reducing competition (Maschinski and Walters 2007, p. 57). The exact impacts of mowing thus depend on the timing of the mowing event, rainfall prior to and following mowing, and the numbers of plants in the population that have reached a reproductive state.

Herbicide applications, the installation of sod, and dumping may affect populations of the four plants that occur on roadsides, canals banks, and other disturbed sites. Signs of herbicide application were noted at the site of the Big Torch Key roadside population of *Linum arenicola* in 2010 (Hodges 2010, p. 2). At the L–31 E canal site, plants of *L. arenicola* were lost on the levee close to Card Sound Road due to the installation of Bahia grass (*Paspalum conjugatum*) sod in recent years, an activity associated with the installation of new culverts. If similar projects are planned, other erosion control measures should be investigated that do not pose a threat to *L. arenicola* (Bradley and Van Der Heiden 2013, p. 10). Illegal dumping of storm-generated trash after Hurricane Wilma had a large impact on roadside populations of plants in the lower Florida Keys (Hodges and Bradley 2006, pp. 11–12, 19, 39).

All populations of the four plants that occur on disturbed sites are vulnerable to regular maintenance activities such as mowing and herbicide applications, and dumping. This includes portions of all populations of *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum*, 10 of 12 *Linum arenicola* populations, and 5 of 34 *Argythamnia blodgettii* populations. All roadside populations are also vulnerable to infrastructure projects such as road widening and installation of underground cable, sewer, and water lines.

Pesticide Effects on Pollinators

Another potential anthropogenic threat to the four plants is current application of insecticides throughout these plants' ranges to control mosquito populations. Currently, an aerial insecticide (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) and ground insecticide (Permethrin) are applied during the May through November timeframe in many parts of south Florida. Nontarget effects of mosquito control may include the loss of pollinating insects upon which certain plants depend.

Koptur and Liu (2003, p. 1184) reported a decrease in *Chamaecrista lineata* var. *keyensis* pollinator activity following mosquito spraying on Big Pine Key. Mosquito spraying remains a factor on Big Pine Key, and its suppression of pollinator populations may have a long-term impact on reproduction rates. Extensive studies in the Florida Keys suggest that broad spectrum insecticides negatively affect nontarget invertebrates, including pollinators (Hennessey 1991; Eliazar and Emmel 1991; Kevan *et al.* 1997; Salvato 2001; Bargar 2011; Hoang *et al.* 2011). In addition, pesticides have been shown to drift into adjacent undisturbed habitat that serves as a refuge for native biota (Hennessey 1992; Pierce *et al.* 2005; Zhong *et al.* 2010; Bargar 2011). These pesticides can be fatal to nontarget invertebrates that move between urban and forest habitats, altering ecological processes within forest communities (Kevan and Plowright 1989, 1995; Liu and Koptur 2003).

Pesticide spraying practices by the Monroe County Mosquito Control District within NKDR have changed to reduce pesticide use and limit insecticide drift into pine rocklands habitat as a result of agreements between the Service and Florida Keys Mosquito Control District (FKMCD) after critical habitat was designated in 2014 for the Florida leafwing (*Anaea troglodyta floridalis*) and Bartram's scrub-hairstreak (*Strymon acis bartrami*) butterflies (79 FR 47180; August 12, 2014). This designation includes all pine rockland within NKDR where its sole larval host, *Croton linearis*, can potentially occur.

Since 2003, expanded larvicide treatments to surrounding islands have significantly reduced adulticide use on Big Pine Key, No Name Key, and the Torch Keys. In addition, the number of aerially applied Naled treatments allowed on NKDR has been limited since 2008 (Florida Key Mosquito Control District 2012, pp. 10–11). Designated "No spray zones" that include the core habitat used by pine rockland butterflies and several linear miles of pine rocklands habitat within the Refuge-neighborhood interface are now excluded from truck spray applications (Anderson 2012, pers. comm.; Service 2012, p. 32). These exclusions and buffer zones encompass over 95 percent of extant croton distribution on Big Pine Key, and include the majority of known recent and historical Florida leafwing population centers on the island (Salvato 2012, pers. comm.). The area largely coincides with the range of these four plants in the lower Florida Keys. Therefore, the effects of mosquito control pesticide application on the pollinators of the four plants have been minimized at NKDR.

In summary, critical habitat regulations for Bartram's scrub-hairstreak butterfly and Florida leafwing have extended benefits to populations of these four plants and their pollinator guild by limiting mosquito insecticide activity in pine rocklands habitat in the Florida Keys. Nevertheless, we are proceeding cautiously and have initiated a multi-year research project to further investigate the level of impact pesticides have on these four plants and their pollinators throughout their ranges.

Environmental Stochasticity

Endemic species whose populations exhibit a high degree of isolation and narrow geographic distribution, such as *Chamaecrista lineata* var. *keyensis*, *Chamaesyce deltoidea* ssp. *serpyllum*, *Linum arenicola*, and *Argythamnia blodgettii*, are extremely susceptible to extinction from both random and nonrandom catastrophic natural or human-caused events. Of the four species, *Argythamnia blodgettii* is probably less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties. Small populations of species, without positive growth rates, are considered to have a high extinction risk from site-specific demographic and environmental stochasticity (Lande 1993, pp. 911–927).

The climate of south Florida is driven by a combination of local, regional, and global weather events and oscillations. There are three main "seasons": (1) The wet season, which is hot, rainy, and humid from June through October; (2) the official hurricane season that extends one month beyond the wet season (June 1 through November 30), with peak season being August and September; and (3) the dry season, which is drier and cooler, from November through May. In the dry season, periodic surges of cool and dry continental air masses influence the weather with short-duration rain events followed by long periods of dry weather.

Florida is considered the most vulnerable State in the United States to hurricanes and tropical storms (Florida Climate Center, *http://coaps.fsu.edu/climate_center*). Based on data gathered from 1856 to 2008, Klotzbach and Gray (2009, p. 28) calculated the climatological probabilities for each State being impacted by a hurricane or major hurricane in all years over the 152-year timespan. Of the coastal States analyzed, Florida had the highest climatological probabilities, with a 51 percent probability of a hurricane (Category 1 or 2) and a 21 percent probability of a major hurricane (Category 3 or higher). From 1856 to 2008, Florida experienced 109 hurricanes, 36 of which were considered major hurricanes. Given the few isolated populations and restricted range of the four plants in locations prone to storm influences (*i.e.,* Miami-Dade and Monroe Counties), they are at substantial risk from hurricanes, storm surges, and other extreme weather events.

Hurricanes, storm surge, and extreme high tide events are natural events that can pose a threat to the four plants. Hurricanes and tropical storms can modify habitat (*e.g.,* through storm surge) and have the potential to destroy entire populations. Climate change may lead to increased frequency and duration of severe storms (Golladay *et al.* 2004, p. 504; McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015). The four plants experienced these disturbances historically, but had the benefit of more abundant and contiguous habitat to buffer them from extirpations. With most of the historical habitat having been destroyed or modified, the few remaining populations of these plants could face local extirpations due to stochastic events.

The Florida Keys were impacted by three hurricanes in 2005: Katrina on August 26, Rita on September 20, and Wilma on October 24. Hurricane Wilma had the largest impact, with storm surges flooding much of the landmass of the Keys. In some places, this water impounded and sat for days. The vegetation in many areas was top-killed due to salt water inundation (Hodges and Bradley 2006, p. 9). Flooding kills plants that do not have adaptations to tolerate anoxic soil conditions that persist after flooding; the flooding and resulting high salinities might also impact soil seed banks of the four plants (Bradley and Saha 2009, pp. 27–28). After hurricane Wilma, the herb layer in pine rocklands in close proximity to the coast was brown with few plants having live material above ground (Bradley 2006, p. 11). Subsequent surveys found no *Linum arenicola* and little *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* in areas where they previously occurred. Not only did the storm surge kill the vegetation, but many of the roadside areas were heavily disturbed by dumping and removal of storm debris (Bradley 2006, p. 37). Estimates of the population sizes pre- and post-Wilma were calculated for *Chamaesyce deltoidea* ssp. *serpyllum* and *Chamaecrista lineata* var. *keyensis.* Each declined in the months following the storm, by 41.2 percent and 48.0 percent, respectively (Bradley and Saha 2009, p. 2). *L. arenicola* was not found at all in surveys 8 to 9 weeks after the hurricane (Bradley 2006, p. 36). The Middle Torch Key population was extirpated after Hurricane Wilma, and the population on Big Torch Key declined drastically, with only one individual located. Both of these areas were heavily affected by storm surges during Hurricane Wilma (Hodges 2010, p. 2). As of 2013, populations of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *L. arenicola* in the Florida Keys have not returned to pre-Hurricane Wilma levels (Bradley *et al.* 2015, pp. 21, 25, 29).

Some climate change models predict increased frequency and duration of severe storms, including hurricanes and tropical storms (McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015; Golladay *et al.* 2004, p. 504). Other models predict hurricane and tropical storm frequencies in the Atlantic are expected to decrease between 10 and 30 percent by 2100 (Knutson *et al.* 2008, pp. 1–21). For those models that predict fewer hurricanes, predictions of hurricane wind speeds are expected to increase by 5 to 10 percent due to an increase in available energy for intense storms. Increases in hurricane winds can elevate the chances of damage to existing canopy and increase storm surge heights.

All populations of the four plants are vulnerable to hurricane wind damage. Populations close to the coast and all populations of the four plants in the Florida Keys are vulnerable to inundation by storm surge. Historically, the four plant species may have benefitted from more abundant and contiguous habitat to buffer them from storm events. The small size of many populations of these plants makes them especially vulnerable, in which the loss of even a few individuals could reduce the viability of a single population. The destruction and modification of native habitat, combined with small population size, has likely contributed over time to the stress, decline, and, in some instances, extirpation of populations or local occurrences due to stochastic events.

Due to the small size of some existing populations of *Chamaecrista lineata* var. *keyensis, Linum arenicola,* and *Argythamnia blodgettii* (see below) and the narrow geographic range of all four plant species, their overall resilience to these factors is likely low. These factors, combined with additional stress from habitat loss and modification (*e.g.,* inadequate fire management) may increase the inherent risk of stochastic events that impact these plants. For these reasons, all four plants are at risk of extirpation during extreme stochastic events. Of the four species, *Argythamnia blodgettii* is probably less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties.

Small Population Size and Isolation

Endemic species whose populations exhibit a high degree of isolation are extremely susceptible to extinction from both random and nonrandom catastrophic natural or human-caused events. Species that are restricted to geographically limited areas are inherently more vulnerable to extinction than widespread species because of the increased risk of genetic bottlenecks, random demographic fluctuations, climate change, and localized catastrophes such as hurricanes and disease outbreaks (Mangel and Tier 1994, p. 607; Pimm *et al.* 1998, p. 757). These problems are further magnified when populations are few and restricted to a very small geographic area, and when the number of individuals is very small. Populations with these characteristics face an increased likelihood of stochastic extinction due to changes in demography, the environment, genetics, or other factors (Gilpin and Soule 1986, pp. 24–34). Small, isolated populations often exhibit reduced levels of genetic variability, which diminishes the species' capacity to adapt and respond to environmental changes, thereby decreasing the probability of long-term persistence (*e.g.*, Barrett and Kohn 1991, p. 4; Newman and Pilson 1997, p. 361). Very small plant populations may experience reduced reproductive vigor due to ineffective pollination or inbreeding depression. Isolated individuals have difficulty achieving natural pollen exchange, which limits the production of viable seed. The problems associated with small population size and vulnerability to random demographic fluctuations or natural catastrophes are further magnified by synergistic interactions with other threats, such as those discussed above (see Factors A and C).

Chamaecrista lineata var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* both have large populations on Big Pine Key. The other extant occurrence of *Chamaecrista lineata* var. *keyensis* in the Florida Keys, on Cudjoe Key, is small. Five out of 12 extant *Linum arenicola* populations, and 20 of 34 *Argythamnia blodgettii* populations, have fewer than 100 individuals. These small populations are at risk of adverse effects from reduced genetic variation, an increased risk of inbreeding depression, and reduced reproductive output. Many of these populations are small and isolated from each other, decreasing the likelihood that they could be naturally reestablished in the event that extinction from one location would occur. *Argythamnia blodgettii* is the only one of the four plants species that occurs in ENP, where a population of over 2,000 plants is stable and prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis.

Climate Change and Sea Level Rise

Climatic changes, including sea level rise (SLR), are occurring in the State of Florida and are impacting associated plants, animals, and habitats. Our analyses under the Act include consideration of ongoing and projected changes in climate. The term "climate," as defined by the Intergovernmental Panel on Climate Change (IPCC), refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2013, p. 1450). The term "climate change" thus refers to a change in the mean or variability of one or more measures of climate (*e.g.*, temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2013, p. 1450). A recent compilation of climate change and its effects is available from IPCC reports (IPCC 2013, entire).

Scientific measurements spanning several decades demonstrate that changes in climate are occurring, and that the rate of change has been faster since the 1950s. Examples include warming of the global climate system, and substantial increases in precipitation in some regions of the world and decreases in other regions. (For these and other examples, see IPCC 2007a, p. 30; Solomon *et al.* 2007, pp. 35–54, 82–85). Results of scientific analyses presented by the IPCC show that most of the observed increase in global average temperature since the mid-20th century cannot be explained by natural variability in climate, and is "very likely" (defined by the IPCC as 90 percent or higher probability) due to the observed increase in greenhouse gas (GHG) concentrations in the atmosphere as a result of human activities, particularly carbon dioxide emissions from use of fossil fuels (IPCC 2007a, pp. 5–6 and figures SPM.3 and SPM.4; Solomon *et al.* 2007, pp. 21–35). Further confirmation of the role of GHGs comes from analyses by Huber and Knutti (2011, p. 4), who concluded it is extremely likely that approximately 75 percent of global warming since 1950 has been caused by human activities.

Scientists use a variety of climate models, which include consideration of natural processes and variability, as well as various scenarios of potential levels and timing of GHG emissions, to evaluate the causes of changes already observed and to project future changes in temperature and other climate conditions (*e.g.*, Meehl *et al.* 2007, entire; Ganguly *et al.* 2009, pp. 11555, 15558; Prinn *et al.* 2011, pp. 527, 529). All combinations of models and emissions scenarios yield very similar projections of increases in the most common measure of climate change, average global surface temperature (commonly known as global warming), until about 2030. Although projections of the magnitude and rate of warming differ after about 2030, the overall trajectory of all the projections is one of increased global warming through the end of this century, even for the projections based on scenarios that assume that GHG emissions will stabilize or decline. Thus, there is strong scientific support for projections that warming will continue through the 21st century, and that the magnitude and rate of change will be influenced substantially by the extent of GHG emissions (IPCC 2007a, pp. 44–45; Meehl *et al.* 2007, pp. 760–764, 797–811; Ganguly *et al.* 2009, pp. 15555–15558; Prinn *et al.* 2011, pp. 527, 529). (See IPCC 2007b, p. 8, for a summary of other global projections of climate-related changes, such as frequency of heat waves and changes in precipitation. Also see IPCC 2011 (entire) for a summary of observations and projections of extreme climate events.)

Various changes in climate may have direct or indirect effects on species. These effects may be positive, neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as interactions of climate with other variables (*e.g.*, habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability refers to the degree to which a species (or system) is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the type, magnitude, and rate of climate change and variation to which a species is exposed, its sensitivity, and its adaptive capacity (IPCC 2007a, p. 89; see also Glick *et al.* 2011, pp. 19–22). There is no single method for conducting such analyses that applies to all situations (Glick *et al.* 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an "endangered species" or a "threatened species" under the Act. If a species is listed as endangered or threatened, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Global climate projections are informative, and, in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (*e.g.,* IPCC 2007a, pp. 8–12). Therefore, we use "downscaled" projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling).

With regard to our analysis for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* downscaled projections suggest that SLR is the largest climate-driven challenge to low-lying coastal areas in the subtropical ecoregion of southern Florida (U.S. Climate Change Science Program (USCCSP) 2008, pp. 5–31, 5–32). All populations of the four plants occur at elevations from 2.83–4.14 meters (m) (9.29–13.57 feet (ft)) above sea level, making these plants highly susceptible to increased storm surges and related impacts associated with SLR.

We acknowledge that the drivers of SLR (especially contributions of melting glaciers) are not completely understood, and there is uncertainty with regard to the rate and amount of SLR. This uncertainty increases as projections are made further into the future. For this reason, we examine threats to the species within the range of projections found in recent climate change literature.

The long-term record at Key West shows that sea level rose on average 0.229 cm (0.090 in) annually between 1913 and 2013 (National Oceanographic and Atmospheric Administration (NOAA) 2013, p. 1). This equates to approximately 22.9 cm (9.02 in) over the last 100 years. IPCC (2008, p. 28) emphasized it is very likely that the average rate of SLR during the 21st century will exceed the historical rate. The IPCC Special Report on Emission Scenarios (2000, entire) presented a range of scenarios based on the computed amount of change in the climate system due to various potential amounts of anthropogenic greenhouse gases and aerosols in 2100. Each scenario describes a future world with varying levels of atmospheric pollution leading to corresponding levels of global warming and corresponding levels of SLR. The IPCC Synthesis Report (2007, entire) provided an integrated view of climate change and presented updated projections of future climate change and related impacts under different scenarios.

Subsequent to the 2007 IPCC Report, the scientific community has continued to model SLR. Recent peer-reviewed publications indicate a movement toward increased acceleration of SLR. Observed SLR rates are already trending along the higher end of the 2007 IPCC estimates, and it is now widely held that SLR will exceed the levels projected by the IPCC (Rahmstorf *et al.* 2012, p. 1; Grinsted *et al.* 2010, p. 470). Taken together, these studies support the use of higher end estimates now prevalent in the scientific literature. Recent studies have estimated global mean SLR of 1.0–2.0 m (3.3–6.6 ft) by 2100 as follows: 0.75–1.90 m (2.50–6.20 ft; Vermeer and Rahmstorf 2009, p. 21530); 0.8–2.0 m (2.6–6.6 ft; Pfeffer *et al.* 2008, p. 1342); 0.9–1.3 m (3.0–4.3 ft; Grinsted *et al.* 2010, pp. 469–470); 0.6–1.6 m (2.0–5.2 ft; Jevrejeva *et al.* 2010, p. 4); and 0.5–1.4 m (1.6–4.6 ft; National Research Council 2012, p. 2).

Other processes expected to be affected by projected warming include temperatures, rainfall (amount, seasonal timing, and distribution), and storms (frequency and intensity) (see "Environmental Stochasticity", above). Models where sea surface temperatures are increasing also show a higher probability of more intense storms (Maschinski *et al.* 2011, p. 148). The Massachusetts Institute of Technology (MIT) modeled several scenarios combining various levels of SLR, temperature change, and precipitation differences with human population growth, policy assumptions, and conservation funding changes. All of the scenarios, from small climate change shifts to major changes, indicate significant effects on coastal Miami-Dade County. The Science and Technology Committee of the Miami-Dade County Climate Change Task Force (Wanless *et al.* 2008, p. 1) recognize that significant SLR is a serious concern for Miami-Dade County in the near future. In a January 2008 statement, the committee warned that sea level is expected to rise at least 0.9–1.5 m (3.0–5.0 ft) within this century (Wanless *et al.* 2008, p. 3). With a 0.9–1.2 m (3.0–4.0 ft) rise in sea level (above baseline) in Miami-Dade County, spring high tides would be at about 1.83–2.13 m (6.0–7.0 ft); freshwater resources would be gone; the Everglades would be inundated on the west side of Miami-Dade County; the barrier islands would be largely inundated; storm surges would be devastating to coastal habitat and associated species; and landfill sites would be exposed to erosion, contaminating marine and coastal environments. Freshwater and coastal mangrove wetlands will be unable to keep up with or offset SLR of 0.61 m (2.0 ft) per century or greater. With a 1.52 m (5.0 ft) rise, Miami-Dade County will be extremely diminished (Wanless *et al.* 2008, pp. 3–4).

SLR projections from various scenarios have been downscaled by TNC (2011, entire) and Zhang *et al.* (2011, entire) for the Florida Keys. Using the IPCC best-case, low-pollution scenario, a rise of 18 cm (7 in) (a rate close to the historical average reported above) would result in the inundation of 23,796 ha (58,800 acres) or 38.2 percent of the Florida Keys upland area by the year 2100 (TNC 2011, p. 25). Under the IPCC worst-case, high-pollution scenario, a rise of 59 cm (23.2 in) would result in the inundation of 46,539 ha (115,000 acres) or 74.7 percent of the Florida Keys upland area by the year 2100 (TNC 2011, p. 25). Using Rahmstorf *et al.*'s (2007; p. 368) SLR projections of 100 to 140 cm, 80.5 to 92.2 percent of the Florida Keys land area would be inundated by 2100. The Zhang *et al. (*2011, p. 136) study models SLR up to 1.8 m (5.9 ft) for the Florida Keys, which would inundate 93.6 percent of the current land area of the Keys.

Prior to inundations from SLR, there will likely be habitat transitions related to climate change, including changes to hydrology and increasing vulnerability to storm surge. Hydrology has a strong influence on plant distribution in coastal areas (IPCC 2008, p. 57). Such communities typically grade from salt to brackish to freshwater species. From the 1930s to 1950s, increased salinity contributed to the decline of cabbage palm forests in southwest Florida (Williams *et al.* 1999, pp. 2056–2059), expansion of mangroves into adjacent marshes in the Everglades (Ross *et al.* 2000, pp. 101, 111), and loss of pine rocklands in the Keys (Ross *et al.* 1994, pp. 144, 151–155). In Florida, pine rocklands transition into rockland hammocks, and, as such, these habitat types are closely associated in the landscape. A study conducted in one pine rocklands location on Sugar Loaf Key (with an average elevation of 0.89 m (2.90 ft)) found an approximately 65 percent reduction in an area occupied by South Florida slash pine over a 70-year period, with pine mortality and subsequent increased proportions of halophytic (salt-loving) plants occurring earlier at the lower elevations (Ross *et al.* 1994, pp. 149–152). During this same time span, local sea level had risen by 15 cm (6 in), and Ross *et al.* (1994, p. 152) found evidence of groundwater and soil water salinization. Extrapolating this situation to hardwood hammocks is not straightforward, but it suggests that changes in rockland hammock species composition may not be an issue in the immediate future (5–10 years); however, over the long term (within the next 10–50 years), it may be an issue if current projections of SLR occur and freshwater inputs are not sufficient to maintain high humidities and prevent changes in existing canopy species through salinization (Saha *et al.* 2011, pp. 22–25). Ross *et al.* (2009, pp. 471–478) suggested that interactions between SLR and pulse disturbances (*e.g.,* storm surges) can cause vegetation to change sooner than projected based on sea level alone.

Impacts from climate change including regional SLR have been studied for coastal hammocks but not rockland hammock habitat. Saha (*et al.* 2011, pp. 24–25) conducted a risk assessment on rare plant species in ENP and found that impacts from SLR have significant effects on imperiled taxa. This study also predicted a decline in the extent of coastal hammocks with initial SLR, coupled with a reduction in freshwater recharge volume and an increase in pore water (water filling spaces between grains of sediment) salinity, which will push hardwood species to the edge of their drought (freshwater shortage and physiological) tolerance, jeopardizing critically imperiled or endemic species, or both, with possible extirpation. In south Florida, SLR of 1–2 m (3.3–6.6 ft) is estimated by 2100, which is on the higher end of global estimates for SLR. These projected increases in sea level pose a threat to coastal plant communities and habitats from mangroves at sea level to salinity-intolerant, coastal rockland hammocks where elevations are generally less than 2.0 m (6.1 ft) above sea level (Saha *et al.* 2011, p. 2). Loss or degradation of these habitats can be a direct result of SLR or in combination of several other factors, including diversion of freshwater flow, hurricanes, and exotic plant species infestations, which can ultimately pose a threat to rare plant populations (Saha *et al.* 2011, p. 24).

Habitats for these species are restricted to relatively immobile geologic features separated by large expanses of flooded, inhospitable wetland or ocean, leading us to conclude that these habitats will likely not be able to migrate as sea level rises (Saha *et al.* 2011, pp. 103–104). Because of the extreme fragmentation of remaining habitat and isolation of remaining populations, and the accelerating rate at which SLR is projected to occur (Grinsted *et al.* 2010, p. 470), it will be particularly difficult for these species to disperse to suitable habitat once existing sites that support them are lost to SLR. Patterns of development will also likely be significant factors influencing whether natural communities can move and persist (IPCC 2008, p. 57; CCSP 2008, pp. 7–6). The plant species face significant risks from coastal squeeze that occurs when habitat is pressed between rising sea levels and coastal development that prevents landward migration of species. The ultimate effect of these impacts is likely to result in reductions in reproduction and survival, with corresponding decreases in population numbers.

Saha (*et al.* 2011, p. 4) suggested that the rising water table accompanying SLR will shrink the vadose zone (the area which extends from the top of the ground surface to the water table); increase salinity in the bottom portion of the freshwater lens, thereby increasing brackishness of plant-available water; and influence tree species composition of coastal hardwood hammocks based upon species-level tolerance to salinity or drought or both. Evidence of population declines and shifts in rare plant communities, along with multi-trophic effects, already have been documented on the low-elevation islands of the Florida Keys (Maschinski *et al.* 2011, p. 148).

Direct losses to extant populations of all four plants are expected due to habitat loss and modification from SLR by 2100. We analyzed existing sites that support populations of the four plants using the National Oceanic and Atmospheric Administration (NOAA) Sea Level Rise and Coastal Impacts viewer. Below, we discuss general implications of sea level rise within the range of projections discussed above on the current distribution of these species. The NOAA tool uses 1-foot increments, so the analysis is based on 0.91 m (3 ft) and 1.8 m (6 ft).

Chamaecrista lineata var. *keyensis:* A 0.91-m (3-ft) rise would inundate most areas of Big Pine Key, and all areas of Cudjoe Key, that support *Chamaecrista lineata* var. *keyensis,* and reduce both Keys to several much smaller islands. The remaining uplands on these islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to storm surge. This will further reduce and fragment these populations. A 1.8-m (6-ft) rise would completely inundate all areas that support *C. lineata* var. *keyensis* and eliminate all pine rocklands habitat within the historic range of the species.

Chamaesyce deltoidea var. *serpyllum:* A 0.91-m (3-ft) rise would inundate most areas of Big Pine Key that support *Chamaesyce deltoidea* var. *serpyllum,* and reduce the Key to three to five much smaller islands. The remaining uplands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to storm surge. This will further reduce and fragment the population. A 1.8-m (6-ft) rise would completely inundate all areas that support *C. deltoidea* var. *serpyllum* and eliminate all pine rocklands habitat within the historic range of the species.

Linum arenicola: In Miami-Dade County, a 0.91-m (3-ft) rise would inundate the area that supports a large extant population of *Linum arenicola* along L–31E canal. While other areas that support the species are located in higher elevation areas along the coastal ridge, changes in the salinity of the water table and soils, along with additional vegetation shifts in the region, are likely. Remaining uplands may transition to wetter, more salt-tolerant plant communities. This will further reduce and fragment the populations. A 1.8-m (6-ft) rise would inundate portions of the largest known population (HARB), as well the population along L–31E canal. The areas that support *Linum arenicola* at the Richmond pinelands to the north would not be inundated, but pine rocklands in these areas may be reduced through transition to wetter, more salt-tolerant plant communities, as discussed above.

In the Florida Keys, a 0.91-m (3-ft) rise would inundate most areas of Big Pine Key and Lower Sugarloaf Key, and all of the areas on Upper Sugarloaf Key and Big Torch Key, that support *Linum arenicola,* and reduce these Keys to numerous much smaller islands. The remaining uplands on these small islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to further losses due to storm surge. This would further reduce and fragment the populations. A 1.8-m (6-ft) rise would completely inundate all areas that support *Linum arenicola* in the Florida Keys and eliminate all pine rocklands habitat within the historic range of the species in Monroe County.

Argythamnia blodgettii: In Miami-Dade County, a 0.91-m (3-ft) rise would not inundate any extant populations of *Argythamnia blodgettii* because these habitats are located in higher elevation areas along the coastal ridge. However, changes in the salinity of the water table and soils, along with additional vegetation shifts in the region, are likely. Remaining uplands may likely transition to wetter, more salt-tolerant plant communities. This will further reduce and fragment the populations. A 1.8-m (6-ft) rise would inundate portions of Crandon Park, making it unsuitable for *A. blodgettii*. Other areas that support *A. blodgettii*, including the Richmond pinelands to the north, and Long Pine Key in ENP, would not be inundated, but habitats in these areas may be reduced through transition to wetter, more salt-tolerant plant communities, as discussed above.

In the Florida Keys, a 0.91-m (3-ft) rise would reduce the area of islands in the upper Keys, but extant populations on Key Largo, Windley Key, and Lignumvitae Key are less vulnerable than the Middle and Lower Keys, which are at lower elevations. Lower Matecumbe Key, Plantation Key, Vaca Key, Big Pine Key, and Big Munson Island would be fragmented and reduced to numerous much smaller islands. The remaining uplands on these small islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable further losses to storm surge. This would further reduce and fragment the populations. A 1.8–m (6–ft) rise would completely inundate all areas that support *Argythamnia blodgettii* south of Lignumvitae Key. Key Largo, Windley Key, and Lignumvitae Key are the only existing areas supporting extant populations that could continue to support a population given a 1.8-m (6-ft) sea level rise.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

NPS, the Service, Miami-Dade County, and the State of Florida have ongoing nonnative plant management programs to reduce threats on public lands, as funding and resources allow. In Miami-Dade County, nonnative, invasive plant management is very active, with a goal to treat all publicly owned properties at least once a year and more often in many cases. IRC and FTBG conduct research and monitoring in various natural areas within Miami-Dade County and the Florida Keys for various endangered plant species and nonnative, invasive species.

Summary of Factor E

We have analyzed threats from other natural or manmade factors including: Nonnative, invasive plants; management practices used on roadsides and disturbed sites (such as mowing, sodding, and herbicide use); pesticide spraying and its effects on pollinators; environmental stochasticity; effects from small population size and isolation; and the effects of climate change, including SLR. The related risks from hurricanes and storm surge act together to impact populations of all four plants. Some of these threats (*e.g.*, nonnative species) may be reduced on public lands due to active programs by Federal, State, and county land managers. Many of the remaining populations of these plants are small and geographically isolated, and genetic variability is likely low, increasing the inherent risk due to overall low resilience of these plants.

Cumulative Effects of Threats

When two or more threats affect populations of the four plants, the effects of those threats could interact or become compounded, producing a cumulative adverse effect that is greater than the impact of either threat alone. The most obvious cases in which cumulative adverse effects would be significant are those in which small populations (Factor E) are affected by threats that result in destruction or modification of habitat (Factor A). The limited distributions and small population sizes of many populations of the four plants make them extremely susceptible to the detrimental effects of further habitat modification, degradation, and loss, as well as other anthropogenic threats. Mechanisms leading to the decline of the four plants, as discussed above, range from local (*e.g.*, agriculture) to regional (*e.g.*, development, fragmentation, nonnative species) to global (*e.g.*, climate change, SLR) influences. The synergistic effects of threats, such as impacts from hurricanes on a species with a limited distribution and small populations, make it difficult to predict population viability. While these stressors may act in isolation, it is more probable that many stressors are acting simultaneously (or in combination) on populations of these four plants, making them more vulnerable.

Determination

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* Numerous populations of all four plants have been extirpated from these species' historical ranges, and the primary threats of habitat destruction and modification resulting from human population growth and development, agricultural conversion, and inadequate fire management (Factor A); competition from nonnative, invasive species (Factor E); changes in climatic conditions, including SLR (Factor E); and natural stochastic events (Factor E) remain threats for existing populations. Existing regulatory mechanisms have not led to a reduction or removal of threats posed to the four plants from these factors (see Factor D discussion, above). These threats are ongoing, rangewide, and expected to continue in the future. A significant percentage of populations of *Chamaecrista lineata* var. *keyensis, Linum arenicola,* and *Argythamnia blodgettii* are relatively small and isolated from one another, and their ability to recolonize suitable habitat is unlikely without human intervention, if at all. The threats have had and will continue to have substantial adverse effects on the four plants and their habitats. Although attempts are ongoing to alleviate or minimize some of these threats at certain locations, all populations appear to be impacted by one or more threats.

The Act defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range" and a threatened species as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." As described in detail above, *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* are currently at risk throughout all of their range due to the immediacy, severity, significance, timing, and scope of those threats. Impacts from these threats are ongoing and increasing; singly or in combination, these threats place these three plants in danger of extinction. The risk of extinction is high because the populations are small, are isolated, and have limited to no potential for recolonization. Numerous threats are currently ongoing and are likely to continue in the foreseeable future, at a high intensity and across the entire range of these plants. Furthermore, natural stochastic events and changes in climatic conditions pose a threat to the persistence of these plants, especially in light of the fact these events cannot be controlled and mitigation measures have yet to be addressed. Individually and collectively, all these threats can contribute to the local extirpation and potential extinction of these plant species. Because these threats are placing them in danger of extinction throughout their ranges, we have determined that each of these three plants meets the definition of an endangered species throughout their ranges.

Throughout its range, *Argythamnia blodgettii* faces threats similar to the other three plant species that are the subjects of this rule. However, we find that endangered species status is not appropriate for *A. blodgettii*. While we have evidence of threats under Factors A, D, and E affecting the species, insufficient data are available to identify the trends in extant populations. Twenty populations are extant, 15 are extirpated, and we are uncertain of the status of 15 populations that have not been surveyed in 15 years or more. Additionally, data show that the threat of habitat loss from sea level rise is not as severe for this species. Also, *A. blodgettii* is likely less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties. Further, *A. blodgettii* is the only one of the four plants species that occurs in ENP, where a population of over 2,000 plants is stable and where prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis. Therefore, based on the best available information,

Significant Portion of the Range (SPR)

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The threats to the survival of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* occur throughout these species' ranges and are not restricted to any particular significant portion of those ranges. Accordingly, our assessment and determination applies to each of the four plants throughout its entire range. Because we have determined that *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* meet the definition of endangered species, and *Argythamnia blodgettii* meets the definition of a threatened species, throughout their ranges, no portion of their ranges can be "significant" for purposes of the definitions of "endangered species" and "threatened species." See the Service's SPR Policy (79 FR 37578; July 1, 2014).

Therefore, on the basis of the best available scientific and commercial information, we list *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* as endangered species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that threatened species status is not appropriate for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* because of the contracted range of each species and because the threats are occurring rangewide, are ongoing, and are expected to continue into the future. We find that *A. blodgettii* is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, and we list the species as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. If these four plant species are listed, a recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.*, restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. If these four plant species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Florida would be eligible for Federal funds to implement management actions that promote the protection or recovery of the four plants. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* Additionally, we invite you to submit any new information on these plants whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section

7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, if designated, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require consultation as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the Service, NPS, and Department of Defense; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways by the Federal Highway Administration; and disaster relief efforts conducted by the Federal Emergency Management Agency.

With respect to endangered plants, prohibitions outlined at 50 CFR 17.61 make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, for endangered plants, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Exceptions to these prohibitions are outlined at 50 CFR 17.62. With respect to threatened plants, 50 CFR 17.71 provides that, with certain exceptions, all of the prohibitions outlined at 50 CFR 17.61 for endangered plants also apply to threatened plants. Permit exceptions to the prohibitions for threatened plants are outlined at 50 CFR 17.72.

Preservation of native flora of Florida through Florida Statutes 581.185, sections (3)(a) and (3)(b), provide limited protection to species listed in the State of Florida Regulated Plant Index including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* as described under the Factor D discussion, above. Federal listing will increase protection for these plants by making violations of section 3 of the Florida Statute punishable as a Federal offense under section 9 of the Act. This would provide increased protection from unauthorized collecting and vandalism for the plants on State and private lands, where they might not otherwise be protected by the Act, and would increase the severity of the penalty for unauthorized collection, vandalism, or trade in these plants.

The Service acknowledges that it cannot fully address some of the natural threats facing *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* (*e.g.,* hurricanes, storm surge) or even some of the other significant, long-term threats (*e.g.,* climatic changes, SLR). However, through listing, we can provide protection to the known populations and any new population of these plants that may be discovered (see discussion below). With listing, we can also influence Federal actions that may potentially impact these plants (see discussion below); this is especially valuable if these plants are found at additional locations. With listing, we will also be better able to deter illicit collection and trade.

We may issue permits to carry out otherwise prohibited activities involving endangered or threatened plants under certain circumstances. Regulations governing permits for endangered plants are codified at 50 CFR 17.62, and for threatened plants at 50 CFR 17.72. With regard to endangered plants, the Service may issue a permit authorizing any activity otherwise prohibited by 50 CFR 17.61 for scientific purposes or for enhancing the propagation or survival of endangered plants.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is proposed for listing or listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of the species. Based on the best available information, the following actions may potentially result in a violation of section 9, of the Act; this list is not comprehensive:

(1) Import any such species into, or export any of the four plant species from, the United States.

(2) Remove and reduce to possession any of the four plant species from areas under Federal jurisdiction; maliciously damage or destroy any of the four plant species on any such area; or remove, cut, dig up, or damage or destroy any of the four plant species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law.

(3) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any of the four plant species.

(4) Sell or offer for sale in interstate or foreign commerce any of the four plant species.

(5) Introduce any nonnative wildlife or plant species to the State of Florida that compete with or prey upon *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii.*

(6) Release any unauthorized biological control agents that attack any life stage of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii.*

(7) Manipulate or modify, without authorization, the habitat of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii* on Federal lands.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Field Supervisor of the Service's South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of regulations regarding listed species and inquiries about prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services Division, Endangered Species Permits, 1875 Century Boulevard, Atlanta, GA 30345 (phone 404–679–7140; fax 404–679–7081).

When *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are listed under the Act, the State of Florida's Endangered Species Act (Florida Statutes 581.185) is automatically invoked, which also prohibits take of these plants and encourages conservation by State government agencies. Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (Florida Statutes 581.185). Funds for these activities can be made available under section 6 of the Act (Cooperation with the States). Thus, the Federal protection afforded to these plants by listing them as endangered species will be reinforced and supplemented by protection under State law.

Activities that the Service believes could potentially harm these four plants include, but are not limited to:

(1) Actions that would significantly alter the hydrology or substrate, such as ditching or filling. Such activities may include, but are not limited to, road construction or maintenance, and residential, commercial, or recreational development.

(2) Actions that would significantly alter vegetation structure or composition, such as clearing vegetation for construction of residences, facilities, trails, and roads.

(3) Actions that would introduce nonnative species that would significantly alter vegetation structure or composition. Such activities may include, but are not limited to, residential and commercial development, and road construction.

(4) Application of herbicides, or release of contaminants, in areas where these plants occur. Such activities may include, but are not limited to, natural resource management, management of rights-of-way, residential and commercial development, and road construction.

Critical Habitat

Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary of the Interior that such areas are essential for the conservation of the species. Section 3(3) of the Act defines conservation as to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary will designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

In our proposed listing rule, we determined that because the designation of critical habitat will not likely increase the degree of threat to the species and may provide some measure of benefit, the designation of critical habitat is prudent for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.*

Our regulations (50 CFR 424.12(a)(2)) further state that critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analysis of the impacts of the designation is lacking; or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. On the basis of a review of available information, we find that critical habitat for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is not determinable because the specific mapping and economic information sufficient to perform the required analysis of the impacts of the designation is currently lacking. We are still in the process of obtaining more information needed to properly evaluate the economic impacts of designation. We intend to publish a proposed rule designating critical habitat for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* by the end of fiscal year 2017.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the South Florida Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding entries for *Argythamnia blodgettii, Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola,* in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
* * * * * * *				
Argythamnia blodgettii	Blodgett's silverbush	Wherever found	T	[Insert **Federal Register** citation]; September 29, 2016.
* * * * * * *				
Chamaecrista lineata var. *keyensis*.	Big Pine partridge pea	Wherever found	E	[Insert **Federal Register** citation]; September 29, 2016.
* * * * * * *				
Chamaesyce deltoidea ssp. *serpyllum*.	Wedge spurge	Wherever found	E	[Insert **Federal Register** citation]; September 29, 2016.
* * * * * * *				
Linum arenicola	Sand flax	Wherever found	E	[Insert **Federal Register** citation]; September 29, 2016.
* * * * * * *				

Dated: September 21, 2016.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–23546 Filed 9–28–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151130999–6225–01]

RIN 0648–XE895

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; approval of quota transfer.

SUMMARY: NMFS announces its approval of a transfer of a portion of the 2016 commercial bluefish quota from the State of North Carolina to the Commonwealth of Massachusetts. This approval of the transfer complies with the Atlantic Bluefish Fishery Management Plan quota transfer provision. This announcement also informs the public of the revised commercial quotas for North Carolina and Massachusetts.

DATES: Effective September 28, 2016, through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, (978) 281–9112.

SUPPLEMENTARY INFORMATION:
Regulations governing the Atlantic bluefish fishery are found in 50 CFR 648.160 through 648.167. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.162.

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan published in the **Federal Register** on July 26, 2000 (65 FR 45844), and provided a mechanism for transferring bluefish quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Greater Atlantic Region, NMFS (Regional Administrator), can request approval of a transfer of bluefish commercial quota under § 648.162(e)(1)(i) through (iii). The Regional Administrator must first approve any such transfer based on the criteria in § 648.162(e).

North Carolina and Massachusetts have requested the transfer of 75,000 lb (34,019 kg) of bluefish commercial quota from North Carolina to Massachusetts. Both states have certified that the transfer meets all pertinent state requirements. This quota transfer was requested by Massachusetts to ensure that its 2016 quota would not be exceeded. The Regional Administrator has approved this quota transfer based on his determination that the criteria set forth in § 648.162(e)(1)(i) through (iii) have been met. The revised bluefish quotas for calendar year 2016 are: North Carolina, 1,391,100 lb (630,992 kg); and Massachusetts, 553,096 lb (250,880 kg). These quota adjustments revise the quotas specified in the final rule implementing the 2016–2018 Atlantic Bluefish Specifications published on August 4, 2016 (81 FR 51370), and reflect all subsequent commercial bluefish quota transfers completed to date. For information of previous transfers for fishing year 2016 visit: *http://go.usa.gov/xZT8H.*

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 274

RIN 0584–AE02

Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing changes to the Supplemental Nutrition Assistance Program (SNAP) issuance regulations in accordance with the Food, Conservation and Energy Act of 2008, Public Law 110–234 ("the 2008 Farm Bill"). The proposal would implement several provisions of the 2008 Farm Bill to: Clarify that monthly SNAP benefits must be issued in one lump sum; require SNAP accounts to be inactive for a minimum of 6 months before taking benefits off-line; require benefits taken off-line to be restored within 48 hours of the recipient's request; and require permanent expungement of unused benefits after 12 months of account inactivity. This proposal also addresses the requirement to notify households when benefits are taken off-line. Finally, FNS is updating SNAP definitions in 7 CFR part 271, to reflect the Program's new name and the issuance of benefits through Electronic Benefit Transfer (EBT) systems.

DATES: Written comments must be received on or before November 28, 2016 to be assured of consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Preferred method; follow the on-line instructions for submitting comments.
- *Mail:* Comments should be addressed to Vicky T. Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, Rm. 418, 3101 Park Center Drive, Alexandria, Virginia 22302.

This proposed rule would codify and clarify certain technical, operational aspects to States related to benefit issuance. It also requests comment about proposed interpretation of taking benefits off line and expunging benefits. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management, Rm. 418, 3101 Park Center Drive, Alexandria, Virginia 22302, or by phone at 703–305–2476.

SUPPLEMENTARY INFORMATION:

Background

Sections 4113 (Clarification of Split Issuance) and 4114 (Accrual of Benefits) of the 2008 Farm Bill amended section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) ("the Food and Nutrition Act"), which pertains to SNAP benefit issuance. In addition, section 4001 updated the language in the Food and Nutrition Act to reflect the Program's name change from the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP), and section 4115 de-obligated coupons as of June 18, 2009, and made EBT cards the sole method of benefit delivery.

This rulemaking proposes to implement the 2008 Farm Bill amendments to the Food and Nutrition Act, and to update the general information and definitions of 7 CFR part 271 to reflect the Program's new name and issuance of benefits through EBT systems. The elimination of all other benefit delivery options was addressed in the "Regulation Restructuring: Issuance Regulation Update and Reorganization to Reflect the End of Coupon Issuance Systems" rule published in final at 75 FR 18377 on April 12, 2010, which became effective on June 11, 2010. The 2008 Farm Bill provisions addressed in this Proposed Rule were implemented through FNS implementing memo on October 1, 2008.

7 CFR Part 271—General Information and Definitions

FNS is proposing to add new definitions associated with the current EBT issuance system and to update the terminology in 7 CFR part 271, to reflect the program's new name and the elimination of coupons. Furthermore, FNS proposes to change the definition of "Drug addiction or alcoholic treatment and rehabilitation program" to be consistent with current policy, which does not require programs to be eligible to receive funding under Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x *et seq.*) in order to redeem SNAP benefits. Programs that receive funding under part B of title XIX, programs that are eligible to receive funding but do not actually receive funding under part B of title XIX, and programs that are not eligible to receive funding but operate to further the purposes of part B of title XIX to provide treatment to drug addicts and or alcoholics, are all eligible. None of the changes to part 271 would have any policy implications.

7 CFR Part 274—Issuance and Use of Program Benefits

The general provisions proposed in part 274 are statutorily required by the Food and Nutrition Act. These provisions were administratively implemented on October 1, 2008, via an FNS implementation memo, but would be codified with this proposed rule. The discussion below and the subsequent regulatory language for this part provide additional details to address operational processes and/or clarify current policy. Where FNS is also proposing changes to current processes, it is so noted.

Split Issuance

Prior to the 2008 Farm Bill, some State agencies had received strong interest from stakeholders to divide each individual household's monthly allotment into two or more issuances over the month. Up to that point, no State had ever split households' benefit allotments. While not explicitly prohibiting splitting the issuance of monthly allotments, the current SNAP regulations are based on a one-time issuance per month for ongoing benefits with 7 CFR 274.2(d) stating that "all households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month."

The purpose of splitting benefit allotments, according to retail industry proponents, would be to help authorized SNAP stores better manage their food stock, employee hours and traffic flow. Proponents have also suggested that it would ensure that SNAP participants spread their benefit spending over the course of the month instead of depleting the entire allotment early on and not having sufficient funds to meet their nutritional needs as the end of the month approaches. However, section 4113 of the 2008 Farm Bill now requires that State agencies issue a household's ongoing monthly benefit allotment in one lump sum. Proponents of the one issuance per month limitation have argued that requiring the entire monthly benefit allotment to be issued at one time allows households to make large buying trips and to purchase large, economy-size containers of staple foods. It also allows households with small benefit amounts—such as seniors or those with limited transportation options—to make one shopping trip during the month.

To address retailer concerns regarding monthly spikes in traffic flow, State agencies have the option to stagger the issuance of benefits to individual households over multiple days of the month in accordance with 7 CFR 274.2(d)(1). Staggered issuance, in this context, means issuing benefits to a group of SNAP recipients on one date of a month, and issuing benefits to another group of recipients on a different date of the month, and so on, so that all SNAP recipients in the State are not receiving their monthly allotment and shopping on the same day. Staggered issuance allows authorized SNAP stores to manage better their food stock, employee hours and traffic flow, while still allowing recipients to make bulk purchases and/or limit their shopping trips to once per month. When a State agency changes its issuance schedule to institute or expand a staggered issuance schedule, State agencies would continue to have the option to divide the issuances into two parts during the transition month to meet the requirement that no more than 40 days elapses between the issuance of any two allotments provided to a household participating longer than two consecutive, complete months. In general, the prohibition against splitting ongoing monthly issuances is not intended to change policy or practice with respect to the issuance of benefits in any other area, including expedited benefits, the proration of benefits for partial months, the issuance of supplemental benefits in the event a benefit correction is necessary, or the option to issue benefits semimonthly to residents of drug or alcohol addiction treatment facilities.

This provision would be codified at 7 CFR 274.2(c).

Benefit Expungement

Under the previous food stamp coupon issuance system, paper coupons did not have an expiration date. Households could accumulate an unlimited amount of benefits in the form of paper coupons and spend them at any time in the future, until the 2008 Farm Bill de-obligated all food stamp coupons as of June 2009. Currently under EBT, consistent with section 4115 of the 2008 Farm Bill, benefits are expunged (permanently removed) from inactive accounts if the account has been inactive for one year. Current policy considers an account active if the household initiates an action that affects the balance of the account, such as a purchase or refund, at least once every 12 months. As long as the account is active, States are not allowed to expunge any benefits even if there are benefits in the account that were issued more than 12 months ago. Only when the account has been inactive for 12 months, may State agencies begin to permanently remove benefits from a household's account at the benefit allotment level. This policy and approach to expungement was in place through regulations prior to the 2008 Farm Bill.

The 2008 Farm Bill requires State agencies to establish a procedure for recovering electronic benefits from a household's account due to inactivity and to expunge benefits that have not been accessed by a household after a period of 12 months. Because expungement has been a regulatory requirement since the beginning of EBT implementation, all State agencies already have a process in place for expunging benefits from a household's EBT account due to inactivity. Furthermore, the 2008 Farm Bill implementation memo issued on July 3, 2008, maintained the current expungement process outlined in the previous paragraph. However, after further review of the statutory language, FNS has determined that there is sufficient ambiguity in the language to allow for two different interpretations.

Section 7(h)(12)(C) of the Food and Nutrition Act reads, "A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months." This language could be interpreted to support SNAP's current expungement policy (interpretation #1) of only expunging benefits from EBT *accounts* that have not been accessed in 12 months (*i.e.*, inactive accounts). This interpretation focuses on the account referenced in section 7(h)(12)(A) of the statute, which requires State agencies to establish a procedure for recovering electronic benefits from *the account of a household due to inactivity.* Another interpretation (interpretation #2) could be that *benefits* that have not been used after 12 months must be expunged regardless of whether the household has accessed the account (*i.e.*, regardless of account activity).

Since the 2008 Farm Bill passed, FNS has received feedback from some States in support of the second interpretation. This support emphasizes that SNAP households should be prevented from accumulating excessively high balances in their SNAP EBT accounts. High balances, some States have indicated, do not align with the true intent of the program, and hold taxpayer money inactive that could otherwise be spent in a beneficial way. As a result, FNS is requesting comments through this proposed rulemaking to obtain further feedback from State agencies as well as other stakeholders, such as advocates and EBT processors, regarding the possibility of changing the current expungement process to reflect a process in line with interpretation #2.

Under interpretation #2, FNS is particularly interested in receiving comments on how to address a scenario in which a household receives restored benefits for multiple months in one lump sum as a result of a fair hearing finding. This is one possible reason a household might have a large SNAP balance. FNS understands that, in these types of situations, a household would have a shorter period of time overall to spend the restored benefits they were entitled to receive for previous months than would have been the case if the benefits were provided monthly as originally required. The restored benefits would be in addition to any ongoing benefits the household is receiving, which must also be spent within 12 months. However, FNS is also sensitive to the automated system processes that would be impacted if it instituted exceptions to a requirement that State agencies expunge unused benefits 12 months after they were issued.

In addition to comments on each of the two expungement policy interpretations, FNS is also interested in receiving comments on whether every State agency should be given the option to choose one of the two expungement processes discussed here. Therefore, both expungement processes (*i.e.* expunging unused benefits after one year of account inactivity or expunging unused benefits one year after each allotment is issued) would be allowed, giving each State agency the flexibility to choose which process to implement.

Respondents who support the second alternative (*i.e.* expunging unused benefits one year after each allotment is issued), either as mandatory or as an option, should also provide comments regarding household notification of the new expungement policy and suggested effective dates. For example, would an effective date of one year after the final rule's publication date be a suitable timeframe for providing notice to clients that unused benefits over 12 months old will be permanently expunged or should the timeframe be longer or shorter and why?

To summarize: Under interpretation #1, SNAP benefits would only be expunged if the account has been inactive for 12 months. As long as the account is active, no benefits would be expunged regardless of when the benefits were issued, and benefits could continue to accumulate as long as the household remains eligible for benefits. Under interpretation #2, households would have 12 months from the date of issuance to spend each benefit allotment they receive even if the household is accessing the account and using benefits.

In this proposed rule, the proposed regulatory language is in line with the 2008 Farm Bill Implementation Memo, which mirrored current policy of expunging benefits only from inactive EBT accounts. Final language will take into consideration the comments received regarding both possible expungement interpretations discussed above.

This rulemaking also proposes to codify the current policy of requiring State agencies to expunge benefits at the benefit allotment level. In other words, the entire balance of a SNAP EBT account could not be permanently removed due to inactivity if there are benefit allotments that have not been available to the household for at least 12 months. Instead, the State would need to wait 12 months from the date when each benefit allotment was issued to the household or from the last date of account activity, whichever date is later, before expunging those particular funds.

Furthermore, to ensure that benefits are not available to the household longer than allowed by statute, FNS is proposing to require State agencies to expunge benefits from the EBT system or, if offline, from the State records on a daily basis.

This proposed rule also clarifies that the expungement timeframe requirement would not apply to cases that have been closed due to the death of all household members. In most cases, this provision would apply to one-person households. Once the State agency has confirmed a death match and closed the case in accordance with 7 CFR 272.14, there is no one left in the household who is entitled to the benefits. In such cases, State agencies would be required to permanently expunge all SNAP benefits in the household's account regardless of when the benefits were issued or last used. This provision would prevent unauthorized persons from accessing and using benefits that remain in a deceased household's account. For all other SNAP cases, benefits would continue to remain in the SNAP account even after the SNAP case is closed (unless taken off-line due to inactivity as discussed below) until the benefits have aged off in accordance with expungement requirements.

This provision would be codified at 7 CFR 274.2(h)(2).

Moving Benefits Off-Line

Prior to the 2008 Farm Bill, EBT regulations allowed State agencies to move all benefits in an inactive SNAP account off-line if the account had not been accessed over a three-month period. Once benefits are taken off-line, they are no longer immediately accessible to the household, but must be reinstated if the household reapplies for the program or requests that the remaining benefits be moved back on-line prior to expungement. However, some households, especially seniors who qualify for a small amount of benefits, have been known to save up those smaller amounts and use several months' worth in one shopping trip. For these households, three months may have been too short a period before moving benefits off-line. As a result, section 4114 of the 2008 Farm Bill stipulated 6 months as the time period that an EBT account must be inactive before a State agency may move benefits off-line. State agencies are not required to take inactive benefits off-line at all prior to expungement, but if a State agency wishes to exercise the option to do so, it must wait until an EBT account has been inactive for at least 6 months. In accordance with the July 3, 2008, implementing memo, this provision was implemented on October 1, 2008.

Because "off-line" was not previously defined in regulations, FNS is taking this opportunity to propose such a definition. The off-line definition would not impact a client's ability to get benefits reinstated, or the timeframes. The definition serves only to provide State agencies and EBT processors the parameters for operationalizing the off-line provision. FNS welcomes comments regarding the impact this definition would have on State agencies' EBT issuance systems.

Going forward, taking benefits "off-line" would mean that the benefits are being removed from the EBT account and the EBT system. Moreover, this regulation proposes that, when taking benefits off-line, from a financial management perspective, the EBT contractor treat these benefits like expungements by removing benefits from the Account Management Agent (AMA). The AMA is an accounting system that interfaces with the U.S. Department of Treasury to keep track of benefit authorizations, returned benefits such as expungements, and benefit redemptions. However, unlike a permanent expungement, information about the benefits (amount, availability date, last used date, etc.) would be stored elsewhere so that the benefits can be reissued upon timely contact by the household.

The law does not allow State agencies to make SNAP benefits in an inactive EBT account inaccessible to a client prior to expungement, unless they exercise the option to store benefits off-line within the permitted timeframes. Therefore, under the proposed definition of "off-line", State agencies would no longer be able to flag an account as "dormant" or otherwise deactivate the account to make benefits inaccessible to the client, and yet keep the benefits on-line. FNS is proposing this limitation because such a practice would defeat the logic of the original regulation that permitted benefits to be moved off-line. When the original regulation to allow State agencies to take benefits off-line was implemented, the increased computer system capacity needed to maintain all EBT accounts on-line was more expensive than it is now. By taking inactive EBT accounts off-line, the goal was to reduce the overall cost of EBT services. The incremental cost of additional system capacity, however, is now considerably less expensive. Therefore, the financial motives for moving benefits off-line are no longer a significant factor. Nevertheless, some State agencies are choosing to make benefits inaccessible after a period of inactivity in order to establish contact with the household and verify continued eligibility. FNS believes this is contrary to the intent of the law. Therefore, as noted above, this rule would no longer permit the practice of simply making benefits inaccessible without actually moving them off-line. Furthermore, by taking the benefits out of the EBT system, this provision would provide additional system security by preventing unauthorized persons from accessing and using accumulated benefits that remain dormant in a household's account. State agencies would still be able to flag a household's EBT account at various stages of inactivity for monitoring purposes, but the benefits would need to remain accessible to the household unless moved off-line or permanently expunged.

Section 4114 of the 2008 Farm Bill also requires State agencies to send a notice to the household when the household's benefits are taken off-line and to make the benefits available again within 48 hours of the household's request. The Congressional intent, as stipulated in the Congressional record, was that notification be closely tied to the date benefits would move off-line. Therefore, this rule proposes in 273.2(h)(1) to allow States to choose when to provide notification as long as it is within 10 days prior to or concurrent with moving benefits off-line. Although not required, some State agencies may want to give clients sufficient notice to access the account to prevent benefits from being taken off-line altogether. Because individual off-line notification is now a statutory requirement, State agencies may no longer receive a waiver to provide general off-line notification as part of initial training or recertification. Inactive accounts with a zero balance that are taken off-line do not require a notice because no actual benefits are made inaccessible to the household.

As already required at 7 CFR 274.2(h)(1), the notice must describe the steps necessary to bring the recovered benefits back on-line. State agencies should make the process for reinstating off-line benefits simple for households. A general request for assistance from a household that has had benefits moved off-line should be considered a request for reinstatement of benefits. In other words, households should not have to follow a complicated reinstatement option in order to get benefits restored to their accounts. Rather, eligibility workers and local office or call center employees should assist households in initiating the process for reinstating benefits. Once the benefits are reinstated, the benefit aging process must start over so that the household has another six months to access the account before the reinstated benefits are taken off-line again, and another 12 months to access the account before those benefits are expunged due to inactivity.

This provision would be codified at 7 CFR 274.2(h)(1).

Procedural Matters

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules and of promoting flexibility. This proposed rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This proposed rule has been designated as not significant by the Office of Management and Budget, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, this rule is certified not to have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. This proposed rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in 2 CFR chapter IV, this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

Executive Order 13132

Executive Order 13132, requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this proposed rule on State and local governments and has determined that this rulemaking does not have federalism implications. This proposed rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless specified in the **DATES** section of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Executive Order 13175

Executive Order 13175, requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by tribal officials or their designees concerning the impact of this rulemaking on the tribe or Indian tribal governments, or whether this rulemaking may preempt tribal law. USDA did not receive any comments specific to this proposed rule during the sessions. Reports from the consultative sessions were made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA offers consultation opportunities, such as webinars and teleconferences, for collaborative conversations with tribal leaders and their representatives concerning ways to improve rules with regard to their effect on Indian country on a quarterly basis as part of its yearly tribal consultation schedule.

We are unaware of any current tribal laws that could be in conflict with the proposed rule. We request that commenters address any concerns in this regard in their responses.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with Departmental Regulations 4300–4, "Civil Rights Impact Analysis," and 1512–1, "Regulatory Decision Making Requirements." After a careful review of the rule's intent and provisions, FNS has determined that this proposed rule will not in any way limit or reduce the ability of protected classes of individuals to receive SNAP benefits on the basis of their race, color, national origin, sex, age, disability, religion or political belief nor will it have a differential impact on minority owned or operated business establishments, and woman owned or operated business establishments that participate in SNAP.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chap. 35; see 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This proposed rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 Parts 271 and 274

Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

For reason set forth in the preamble, 7 CFR parts 271 and 274 are proposed to be amended as follows:

SUBCHAPTER C—[AMENDED]

■ 1. In the heading of subchapter C of chapter II, remove the words "Food Stamp" and add in their place the words "Supplemental Nutrition Assistance".

■ 2. The authority citation for 7 CFR parts 271 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.1 General purpose and scope.

■ 3. In § 271.1:

■ a. Revise paragraph (a);

■ b. Remove the word "coupons" from the fourth sentence of paragraph (b) and add in its place "SNAP benefits"; and

■ c. Remove the word "coupon" from the tenth sentence of paragraph (b) and add in its place "benefit".

The revision reads as follows:

§ 271.1 General purpose and scope.

(a) *Purpose of SNAP.* In accordance with section 2 of the Food and Nutrition Act of 2008, SNAP is designed to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households.

* * * * *

■ 4. In § 271.2:

■ a. Amend the definition of *Allotment* by removing the word "coupons" and adding in its place the word "benefits";

■ b. Remove the definition of *Authorization to participate card (ATP);*

■ c. Add definitions for *Benefit* and *Benefit issuer* in alphabetical order;

■ d. Remove the definition of *Bulk storage point;*

■ e. Add a definition for *Contractor (or Contracted vendor)* in alphabetical order;

■ f. Remove the definitions of *Coupon issuer* and *Direct access system;*

■ g. Revise the definition of *Drug addiction or alcoholic treatment and rehabilitation program;*

■ h. Add definitions for *Electronic Benefit Transfer (EBT) account, Electronic Benefit Transfer (EBT) card,* and *Electronic Benefit Transfer (EBT) system* in alphabetical order;

■ i. Amend the definition of *Eligible foods* by removing the word "coupons" where it appears twice in paragraph (3) of the definition, and adding in its place the words "SNAP benefits";

■ j. Amend the definition of *Employment and training (E&T) component* by removing "6(d)(4)(B)(iv)" and adding in its place "6(d)(4)(B)" and by removing "(7 U.S.C. 2014(2)(4)(B))" and adding in its place "(7 U.S.C. 2015(d)(4)(B))";

■ k. Amend the definition of *Employment and training (E&T) mandatory participant* by removing "7 U.S.C. 2014(d)(1)" and adding in its place "7 U.S.C. 2015(d)(1)";

■ l. Amend the definition of *Firm's practice* by removing the words "food coupons" and adding in their place the words "SNAP benefits";

■ m. Add a definition for *Food and Nutrition Act of 2008 (Food and Nutrition Act)* in alphabetical order;

■ n. Revise the definition of *Food Stamp Act;*

■ o. Amend the definition of *Identification (ID) card* by removing the words "food coupons" and adding in its place the words "SNAP benefits";

■ p. Add definitions for *Interoperability, Manual transaction,* and *Manual voucher* in alphabetical order;

■ q. Amend the definition of *Overissuance* by removing the word "coupons" and adding in its place the word "benefits";

■ r. Add definitions for *Personal identification number (PIN), Point-of-sale (POS) terminal,* and *Primary account number (PAN)* in alphabetical order;

■ s. Remove the definition of *Program;*

■ t. Add definitions for *Retailer EBT Data Exchange (REDE) system* and *Supplemental Nutrition Assistance Program (SNAP or Program)* in alphabetical order.

The additions and revisions read as follows:

§ 271.2 Definitions.

* * * * *

Benefit means the value of supplemental nutrition assistance provided to a household by means of an EBT system or other means of providing assistance, as determined by the Secretary.

Benefit issuer means any office of the State agency or any person, partnership, corporation, organization, political subdivision or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility, in connection with the issuance of benefits to households.

* * * * *

Contractor (or contracted vendor) means an entity that is selected to perform EBT-related services for the State agency.

* * * * *

Drug addiction or alcoholic treatment and rehabilitation program means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center and certified by the requisite State title XIX Agency as:

(1) Receiving funding under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x *et seq.*);

(2) Eligible to receive funding under part B of title XIX even if it does not actually receive funding; or

(3) Operating to further the purposes of part B of title XIX, to provide treatment to drug addicts and or alcoholics.

Electronic Benefit Transfer (EBT) account means a set of records containing demographic, card, benefit, transaction and balance data for an individual household within the EBT system that is maintained and managed by a State or its contractor as part of the client case record.

Electronic Benefit Transfer (EBT) card means an on-line magnetic stripe card or off-line smart card issued to a household member or authorized representative through the EBT system by a benefit issuer.

* * * * *

Electronic Benefit Transfer (EBT) system means an electronic payments system under which household benefits are issued from and stored in a central databank, maintained and managed by a State or its contractor, that uses electronic funds transfer and point-of-sale technology for the delivery and control of food and other public assistance benefits.

* * * * *

Food and Nutrition Act of 2008 (Food and Nutrition Act) means title 7 of the United States Code, sections 2011 through 2036 (7 U.S.C. 2011–2036), including any subsequent amendments thereto.

Food Stamp Act means the Food Stamp Act of 1977 (Pub. L. 95–113) as amended through Public Law 108–269, July 2, 2004.

* * * * *

Interoperability means a system that enables program benefits issued via an EBT card to be redeemed outside the State that issued the benefits.

* * * * *

Manual transaction means an EBT transaction that is processed with the use of a paper manual voucher when there is an EBT system outage.

Manual voucher means a paper document signed by the EBT cardholder that allows a retailer to redeem benefits through a manual transaction.

Personal Identification Number (PIN) means a numeric code selected by or assigned to a household and used to verify the identity of an EBT cardholder when performing an EBT transaction.

* * * * *

Point-of-Sale (POS) terminal means a range of devices deployed at authorized retail food stores for redeeming benefits through the use of an EBT card and PIN to initiate electronic debits and credits of household EBT and retailer bank accounts.

Primary Account Number (PAN) means a number embossed or printed on the EBT card and encoded onto the card to identify the State and EBT account holder.

* * * * *

Retailer EBT Data Exchange (REDE) system means the FNS system that allows the automated exchange of authorized retailer demographic data between FNS and the State and/or EBT contractor for notification of changes in retailer Program participation.

* * * * *

Supplemental Nutrition Assistance Program (SNAP or Program) means the program operated pursuant to the Food and Nutrition Act of 2008.

* * * * *

§ 271.4 [Amended]

■ 5. In § 271.4(a)(2) remove the word "coupons" and add in its place "SNAP benefits and EBT cards".

§ 271.5 [Amended]

■ 6. In § 271.5:

■ a. Remove "coupon" and "coupons" wherever they appear and add in their place "benefit" and "benefits", respectively, including the section heading;

■ b. Amend paragraph (a) by adding "and EBT cards" at the end of the last sentence;

■ c. Amend the introductory text of paragraph (b) by removing the word "ATP" and adding in its place the word "EBT";

■ d. Remove paragraphs (b)(1) through (3); and

■ e. Amend paragraph (c) by removing the word "ATP's" wherever they appear and adding in its place the words "EBT cards".

PART 274—ISSUANCE AND USE OF BENEFITS

■ 7. In § 274.2:

■ a. Revise paragraph (c);

■ b. Amend paragraph (e)(1) by removing the words "of paragraphs (e) through (h)";

■ c. Amend paragraph (g)(3) by removing the words "paragraph (h)(3)" and adding the words "paragraph (i)";

■ d. Revise paragraph (h);

■ e. Add paragraph (i).

The revisions and additions read as follows:

§ 274.2 Providing benefits to participants.

* * * * *

(c) *Benefit allotments.* (1) State agencies shall not issue ongoing monthly benefit allotments to a household in more than one issuance during a month except with respect to the issuance of benefits to a resident of a drug and alcohol treatment and rehabilitation program in accordance with § 273.11(e) of this chapter.

(2) For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, made available at the same time in accordance with the timeframes specified in § 273.2 of this chapter.

* * * * *

(h) *Inactive EBT accounts.* An inactive EBT account means that the household has not initiated activity that affects the balance of the household's SNAP benefits in the account, such as a purchase or return, for a minimum of six months.

(1) *Off-line storage.* If a household's EBT account is inactive for six months or longer, State agencies may elect to store all benefits in that account off-line.

(i) Off-line benefits are benefits that have been removed from the EBT system for storage by the State agency and are no longer accessible to the household unless and until the benefits are reinstated upon contact by the household.

(ii) The State agency shall send written notification to the household up to 10 days prior to or concurrent with the action to store benefits off-line and describe the steps necessary to bring the benefits back on-line. If an inactive account has a zero balance, a notice to the household is not required.

(iii) Benefits stored off-line that have not reached the 12-month timeframe for expungement in accordance with paragraph (h)(2) of this section shall be reinstated and made available within 48 hours of reapplication or contact by the household.

(iv) Off-line benefits shall be removed from the Account Management Agent system, making them unavailable to the household. Upon reinstatement, the benefits shall be reissued and the account shall be reactivated or a new account established to resume the benefit aging process from the new issuance date.

(2) *Expungement.* On a daily basis, the State agency shall expunge benefits from accounts that have been inactive for a period of 12 months in accordance with the following:

(i) When the oldest benefit allotment has not been accessed by the household for 12 months, the State agency shall expunge benefits from the EBT account or off-line storage at the monthly benefit allotment level as each benefit allotment ages to 12 months since the date of issuance or since the last date of account activity, whichever date is later.

(ii) Expunged benefits shall be removed from the Account Management Agent unless already removed as provided in paragraph (h)(1) of this section, and shall not be reinstated.

(iii) The State agency shall not expunge any benefits from active accounts even if there are benefit allotments older than 12 months. If at any time after the expungement process begins, the household initiates activity affecting the balance of the account, the State shall stop expunging benefits from the account and start the account aging process over again for the remaining benefits.

(iv) Notwithstanding the paragraph (h)(2)(iii) of this section, in instances when the State agency verifies a death match for all certified members of the household and closes the SNAP case in accordance with § 272.14 of this chapter, the State agency shall expunge the remaining SNAP balance in the household's EBT account at that time.

(i) *Procedures to adjust SNAP accounts.* Procedures shall be established to permit the appropriate managers to adjust SNAP benefits that have already been posted to an EBT account prior to the household accessing the account; or to remove benefits from inactive accounts for off-line storage or expungement in accordance with paragraph (h) of this section.

(1) Whenever benefits are stored off-line or expunged, the State agency shall document the date, amount of the benefits and storage location in the household case file.

(2) Issuance reports shall reflect the adjustment to the State agency issuance totals to comply with monthly issuance reporting requirements prescribed under § 274.4.

Dated: September 14, 2016.

Telora T. Dean,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2016–22860 Filed 9–28–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9113; Directorate Identifier 2016–NM–042–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN 235–100, CN 235–200, and CN 235–300 airplanes. This proposed AD was prompted by reports of cracks in certain areas of the rear fuselage. This proposed AD would require repetitive borescope and detailed visual inspections of the rear fuselage lateral beam and its external area and repair if necessary. We are proposing this AD to detect and correct cracks in the rear fuselage lateral beam and its external area; such cracking could lead to failure of the affected components, and result in reduced structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by November 14, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus Defence and Space, Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 31 27; email *MTA.TechnicalService@Airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9113; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9113; Directorate Identifier 2016–NM–042–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued Airworthiness Directive 2016–0064, dated April 04, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes. The MCAI states:

> During a scheduled visual inspection accomplished in accordance with the CN–235 Maintenance Review Board (MRB) Document task 53.160, cracking was found, affecting the rear fuselage lateral beam, both left hand (LH) and right hand (RH) sides. The investigation to determine the cause of these cracks is on-going.
>
> This condition, if not detected and corrected, could lead to failure of the affected components, resulting in reduced structural integrity of the fuselage.
>
> To address this potential unsafe condition, Airbus Defence and Space (D&S) issued Alert Operator Transmission (AOT) AOT–CN235–53–0002 Revision 1 (hereafter referred to as 'the AOT' in this AD) to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections [special detailed inspection with a borescope and detailed visual] of the rear fuselage lateral beam and its external area and, depending on findings, [cracks or discrepancies], accomplishment of applicable corrective action(s) [repair].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9113.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Defense and Space Alert Operators Transmission (AOT), AOT–CN235–53–0002, Revision 1, dated September 17, 2015. This service information describes repetitive borescope and detailed visual inspection requirements for the rear fuselage lateral beam and its external area. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 13 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × $85 per hour = $170	0	$170	$2,210

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Docket No. FAA–2016–9113; Directorate Identifier 2016–NM–042–AD.

(a) Comments Due Date

We must receive comments by November 14, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Defense and Space S.A. (formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by reports of cracks in certain areas of the rear fuselage. We are issuing this AD to detect and correct cracks in the rear fuselage lateral beam and its external area; such cracking could lead to failure of the affected components, and result in reduced structural integrity of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections on the Fuselage Lateral Beam

Within the compliance time specified in Table 1 to paragraph (g) of this AD and, thereafter, at intervals not to exceed the values specified in Table 2 to paragraph (g) of this AD, as applicable to airplane model, accomplish the inspections as specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the instructions of Airbus Defense and Space Alert Operators Transmission (AOT) AOT–CN235–53–0002, Revision 1, dated September 17, 2015.

(1) A special detailed inspection for cracks and other discrepancies with a borescope of the rear fuselage lateral beam between Frame (FR) 31 and FR45, left-hand (LH) and right-hand (RH) side.

(2) A detailed visual inspection for cracks and other discrepancies of the external area of the rear fuselage lateral beam, LH and RH side.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—INITIAL INSPECTION COMPLIANCE TIME

	A or B, whichever occurs later
A	Before exceeding 15,000 flight cycles or 15,000 flight hours, whichever occurs first since airplane first flight.
B	Within 50 flight cycles or 50 flight hours whichever occurs first after the effective date of this AD.

TABLE 2 TO PARAGRAPH (g) OF THIS AD—REPETITIVE INSPECTION INTERVALS

Airplane models	Repetitive interval (whichever occurs first, flight cycles or flight hours)
Model CN–235 and CN–235–100 airplanes	3,600 flight cycles or 3,100 flight hours.
Model CN–235–200 airplanes	3,600 flight cycles or 2,800 flight hours.
Model CN–235–300 airplanes	15,000 flight cycles or 15,000 flight hours.

(h) Repair

If any crack or discrepancy is found during any inspection required by paragraph (g) of this AD: Before further flight, contact and obtain repair instructions from Airbus Defense and Space S.A. in accordance with paragraph (k)(2) of this AD, and within the compliance time indicated in those instructions, accomplish the repair accordingly, including any post-repair maintenance task(s), as applicable.

(i) Continued Inspection of Repaired Areas

Accomplishment of a repair on an airplane, as required by paragraph (h) of this AD, does not constitute terminating action for the repetitive inspections as required by paragraph (g) of this AD for that airplane, unless specified in the applicable repair instructions obtained in paragraph (h).

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD, using Airbus Defense and Space AOT AOT–CN235–53–0002, dated August 28, 2015.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0064, dated April 04, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9113.

(2) For service information identified in this AD, contact EADS–CASA, Military Transport Aircraft Division (MTAD), Integrated Customer Services (ICS), Technical Services, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 55 05; email *MTA.TechnicalService@casa.eads.net;* Internet *http://www.eads.net.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 16, 2016.

Suzanne Masterson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–23085 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9112; Directorate Identifier 2016–NM–091–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by reports of the Krueger flap bullnose departing an airplane during taxi, which caused damage to the wing structure and thrust reverser. This proposed AD would require a one-time detailed visual inspection for discrepancies in the Krueger flap bullnose attachment hardware, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct missing Krueger flap bullnose hardware. Such missing hardware could result in the Krueger flap bullnose departing the airplane during flight, which could damage empennage structure and lead to the inability to maintain continued safe flight and landing.

DATES: We must receive comments on this proposed AD by November 14, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9112.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9112; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9112; Directorate Identifier 2016–NM–091–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report indicating that the Krueger flap bullnose departed an airplane during taxi, which caused damage to the wing structure and thrust reverser. There have been six other in-service reports of missing bullnose attachment hardware. Those events resulted in a bullnose droop condition but no departure of the part from the airplane. Departure of the Krueger flap bullnose from the airplane during flight could damage empennage structure and lead to the inability to maintain continued safe flight and landing.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–57A1327, dated May 20, 2016. The service information describes procedures for performing a one-time detailed visual inspection for discrepancies in the Krueger flap bullnose attachment hardware and related investigative and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9112.

The phrase "related investigative actions" is used in this proposed AD. Related investigative actions are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase "corrective actions" is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 1,495 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Inspection of the Krueger flap bullnose hardware	3 work-hours × $85 per hour = $255	$255	$381,225

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–9112; Directorate Identifier 2016–NM–091–AD.

(a) Comments Due Date

We must receive comments by November 14, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–57A1327, dated May 20, 2016.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of the Krueger flap bullnose departing an airplane during taxi, which caused damage to the wing structure and thrust reverser. We are proposing this AD to detect and correct missing Krueger flap bullnose hardware. Such missing hardware could result in the Krueger flap bullnose departing the airplane during flight, which could damage empennage structure and lead to the inability to maintain continued safe flight and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection of the Krueger Flap Bullnose

Within 6 months after the effective date of this AD, do a detailed inspection for discrepancies of the Krueger flap bullnose attachment hardware, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1327, dated May 20, 2016. Do all applicable related investigative and corrective actions before further flight.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (i)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (h)(4)(i) and (h)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or sub-step is labeled "RC Exempt," then the RC requirement is removed from that step or sub-step. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(i) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 16, 2016.

Suzanne Masterson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–23088 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 91

[Docket No.: FAA–2016–9154; Notice No. 16–05]

RIN 2120–AK88

Incorporation by Reference of ICAO Annex 2; Removal of Outdated North Atlantic Minimum Navigation Performance Specifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This rulemaking proposes to harmonize the FAA's regulations regarding the North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) with those of the International Civil Aviation Organization (ICAO). ICAO's NAT Region is transitioning from the decades-old MNPS navigation specification to a more modern, Performance-Based Navigation (PBN) specification. This proposed rule would also correct and update the incorporation by reference of ICAO Annex 2 in the FAA's regulations.

DATES: Send comments on or before October 31, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–9154 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Kevin C. Kelley, Flight Technologies Division, Performance Based Flight Systems Branch, AFS–470, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8854; email *kevin.c.kelley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA's authority to issue rules on aviation safety is found in title 49 United States Code (U.S.C.). Subtitle I, section 106(f), describes the authority of the FAA Administrator. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise his authority consistently with the obligations of the U.S. Government under international agreements.

This rulemaking is promulgated under the authority described in title 49, subtitle VII, part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

This rulemaking is also promulgated pursuant to title 49 U.S.C. 40103(b)(1) and (2), which charge the FAA with issuing regulations: (1) To ensure the safety of aircraft and the efficient use of airspace; and (2) to govern the flight of aircraft for purposes of navigating, protecting and identifying aircraft, and protecting individuals and property on the ground.

This regulation is within the scope of that authority, because it amends 14 CFR 91.703 to harmonize and incorporate changes made to international standards directly applicable in airspace over the high seas.

I. Executive Summary

The proposed rule would harmonize FAA regulations with ICAO standards relevant to the North Atlantic and to airspace over the high seas. In January 2016, ICAO announced that the NAT Minimum Navigation Performance Specifications (MNPS) airspace would be renamed NAT High Level Airspace (HLA) effective February 4, 2016. ICAO further announced that existing MNPS authorizations by the State of the operator or the State of registry will expire in January 2020. As a result, operators in the NAT HLA would no longer be able to use the MNPS for the navigation of aircraft and would be required to transition to a PBN specification. Airspace over the high seas (oceans, seas, and waters outside of sovereign jurisdiction) is governed by ICAO Annex 2. The FAA's regulatory basis for operational authorizations for the NAT and for all airspace over the high seas is addressed in 14 CFR 91.703, which incorporates Annex 2 by reference, and § 91.705, which provides for NAT MNPS authorizations.

This proposed rule, if adopted, would remove MNPS from part 91 of title 14

Code of Federal Regulations (14 CFR) and would not impose any new requirements.

Additionally, under this proposal, the FAA is updating the incorporation by reference (IBR) of ICAO Annex 2 in § 91.703, which was last updated in 1997. Since that time, ICAO has published thirteen amendments to Annex 2. This proposal would remove potential ambiguities about the version of Annex 2 applicable to airspace over the high seas.

Costs and Benefits

The proposed rule is an administrative harmonization, as it does not impose any new requirements. If the FAA does not adopt this rule, ICAO's current transition from the MNPS specification to PBN specifications for operations in the NAT HLA, will still take place by 2020. Consequently, there are no costs associated with this proposed rule.

II. Background

International Civil Aviation Organization (ICAO)

The Chicago Convention was adopted to promote the safe and orderly development of international civil aviation. The Chicago Convention also created ICAO, which promulgates uniform international Standards and Recommended Practices (SARPs) aimed at standardizing international civil aviation operational practices and services. Currently, these SARPs are detailed in 19 annexes to the Chicago Convention. Annex 2, *Rules of the Air,* is of particular relevance here, as these rules pertain to airspace over the high seas. Article 12 to the Convention obligates each Contracting State to adopt measures to ensure that persons operating an aircraft over the high seas comply with Annex 2. As a Contracting State, the U.S. has satisfied this responsibility through 14 CFR part 91, General Operating and Flight Rules, which requires that U.S.-registered aircraft comply with Annex 2 when over the high seas (*see* 14 CFR 91.703). Annex 2, paragraph 5.1.1 provides that "Aircraft shall be equipped with suitable instruments and with navigation equipment appropriate to the route to be flown."

Transition From Minimum Navigation Performance Specifications (MNPS) to Performance-Based Navigation (PBN) Specification

In 1977, ICAO established the Minimum Navigation Performance Specifications (MNPS) and the corresponding NAT airspace where MNPS would apply in an effort to address constrained capacity in light of continued growth of NAT traffic. The following year, the required lateral separation was safely halved from 120 to 60 nautical miles due to the enhanced reliability of navigation equipment meeting the MNPS. This resulted in large capacity and efficiency gains.

Since the implementation of the MNPS, the 60 nautical mile lateral separation has remained in place.[1] In the meantime, more modern PBN specifications of Area Navigation/Required Navigation Performance 10 (RNAV/RNP 10) and RNP 4, have been introduced, as well as automatic aircraft datalink systems which provide periodic position reports to ground stations.

In light of those new developments, and in an effort to again safely increase capacity and efficiency, ICAO has allowed for authorizations by the State of the operator or the State of registry using RNAV 10 and RNP 4 specifications. The FAA has published guidance explaining RNP operations in FAA Advisory Circular 90–105A, *Approval Guidance for RNP Operations and Barometric Vertical Navigation in the U.S. National Airspace System and in Oceanic and Remote Continental Airspace.* Also, in a State Letter dated January 5, 2015, and "NAT OPS Bulletin 2016_001" issued January 22, 2016, ICAO announced that NAT Minimum Navigation Performance Specifications (MNPS) airspace would be renamed as the NAT High Level Airspace (HLA) effective February 4, 2016.

III. Discussion of the Proposal

Removal of References to the North Atlantic Minimum Navigation Performance Specifications

As a result of ICAO renaming the NAT MNPS airspace, the references to NAT MNPS in the FAA's regulations are outdated. The FAA proposes to remove all instances of MNPS in 14 CFR part 91. The prescriptive references to navigational specifications are not necessary since operators are required to comply with Annex 2, which aligned RNP and RNAV terminology with the PBN concept in Amendment 41. The FAA issued a revised Operations Specification (OpSpec B039) for the authorization of PBN operations in the NAT HLA on June 10, 2016. Two part 121 carriers are conducting operations in the NAT HLA under revised OpSpec B039 and the FAA expects other carriers and operators to follow suit.[2] Existing B039 authorizations remain valid until December 31, 2019.

Incorporation by Reference Update and Correction

The FAA also proposes to update and correct the incorporation by reference to ICAO Annex 2 in § 91.703 to the current version of the document, as amended through November 10, 2016. Annex 2, including all amendments through Amendment 32, was incorporated by reference into § 91.703 effective April 9, 1997 (62 FR 17480, Apr. 9, 1997). Since then, 13 amendments to Annex 2 have been published (*see* Table 1).

TABLE 1—AMENDMENTS TO ICAO ANNEX 2 SINCE LAST IBR INTO 14 CFR PART 91

Amendment	Subject	Applicable
33	Communication failure procedures	16 November 1997.
34	Definitions; automatic dependent surveillance systems and procedures; data interchange between automated ATS systems; ATS applications for air-ground data links; problematic use of psychoactive substances.	5 November 1998.
35	ATS airspace classifications; visual meteorological conditions clearance; runway-holding position.	4 November 1999.
36	Revised definitions of "air traffic control unit", "approach control unit", "alternate aerodrome" "flight crew member", "pilot-in-command" and "visibility"; editorial amendments.	1 November 2001.
37	Pilot procedures in the event of unlawful interference; editorial amendments	28 February 2003.

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[1] On December 15, 2015, a trial of Reduced Lateral Separation Minima began in portions of the North Atlantic, with tracks spaced at half degrees of latitude, nominally 30 nautical miles apart.

[2] Of the more than 10,000 ATC flight plans filed in June 2016 for aircraft transiting the New York Oceanic Flight Information Region in the North Atlantic, in excess of 98% indicated either RNP 4 or RNAV/RNP 10 capability.

TABLE 1—AMENDMENTS TO ICAO ANNEX 2 SINCE LAST IBR INTO 14 CFR PART 91—Continued

Amendment	Subject	Applicable
38	Definitions; marshalling signals; communication failure procedures; interception maneuvers; editorial amendments.	24 November 2005.
39	Restructuring of text to emphasize the responsibility of the pilot-in-command for the avoidance of collisions.	23 November 2006.
40	Definitions and associated procedures for ADS–B, ADS–C and ADS–C agreement; pilot procedures in the event of unlawful interference.	22 November 2007.
41	Amendment to a definition and Standard to align required navigation performance (RNP) and area navigation (RNAV) terminology with the performance-based navigation (PBN) concept.	20 November 2008.
42	Amendments to standard emergency hand signals for emergency communications between aircraft rescue and firefighting personnel and flight and/or cabin crews; and harmonization of cruising levels.	19 November 2009.
43	Amendment to definitions; speed variations; and remotely piloted aircraft	15 November 2012.
44	Definitions related to instrument approach operations	13 November 2014.
45	Speed variation procedures	10 November 2016.

In accordance with a process described in FAA Order JO 7000.6A, *Identification and Notification of Differences Between ATO Products and Services and ICAO Documents,* the FAA has examined each of the Amendments to Annex 2 listed in Table 1. Differences are published in the GEN 1.7 section of the current United States Aeronautical Information Publication (AIP). The differences listed in the AIP for Annex 2 are minor in nature, generally apply to operations within the United States and have no relation to the Annex 2 requirement for aircraft to be operated over the high seas with navigation equipment appropriate to the route to be flown.[3]

The FAA notes that the current IBR of Annex 2 does not include the proper language conveying approval of the Director of the Federal Register and proposes to update the IBR of Annex 2 to reflect the Director of the Federal Register's approval as reflected in the proposed regulatory text.

Annex 2 is available through the International Civil Aviation Organization (ICAO), Document Sales Unit, 999 University Street, Montreal, Quebec H3C 5H7, Canada. Also, you will be able obtain this document on the Internet at *http://www.ICAO.int/eshop/index.cfm*. It will also be available for inspection at the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for this determination follows. This rulemaking would harmonize the FAA's regulations regarding the NAT MNPS with those of ICAO. ICAO's NAT Region is transitioning from the decades-old "MNPS" navigation specification to a more modern PBN specification. The FAA also intends to update the incorporation by reference of ICAO Annex 2 in § 91.703. This proposed action, if adopted, would remove all references to MNPS under 14 CFR part 91 and would not impose any new requirements.

Flights in international airspace must follow ICAO standards in that airspace. United States operators have historically complied with provisions relevant to airspace over the high seas in Annex 2. Accordingly, as operators are already complying with ICAO's provisions relevant to operations over the high seas, the FAA believes the proposed rule incorporating the current version of ICAO Annex 2 would impose minimal cost. The FAA requests comments on this determination.

The FAA has, therefore, determined that this rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

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[3] For a complete and current listing of the differences, see the United States Aeronautical Information Manual, Section GEN 1.7, found at: *http://www.faa.gov/air_traffic/publications/media/AIP.pdf.*

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Even though there are substantial numbers of small entities operating aircraft across international waters, this proposed rule would not impose a significant economic impact. Flights in international airspace must follow ICAO standards in that airspace. Currently, United States operators must comply with Annex 2 when operating over the high seas. This proposed rule harmonizes FAA regulations to be in accord with new ICAO rules effective in airspace over the high seas and imposes no new regulations. Accordingly, no affected entity incurs new costs. Thus the FAA expects this proposed rule would not impose a significant economic impact on a substantial number of small entities. The FAA asks for comment on this determination.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking would not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that it uses international ICAO standards and the rule complies with the Trade Agreements Act as amended by the Uruguay Round Agreements Act.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified differences with the current version of Annex 2 (through Amendment 45). These differences, as prescribed in ICAO Annex 15, have been published in the United States Aeronautical Information Publication (AIP), section GEN 1.7. The differences listed in the AIP for Annex 2 are minor in nature and have no relation to the Annex 2 requirement for aircraft to be operated with navigation equipment appropriate to the route to be flown. This is consistent with the FAA's support of international compatibility and its obligations under the Convention on International Civil Aviation.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, International Cooperation

Executive Order (E.O.) 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policy and agency responsibilities of Executive Order 13609, Promoting International Regulatory Cooperation. The agency has determined that this action would not have a significant international impact, but would remove potential ambiguities about the applicability of ICAO rules over the high seas.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1).

List of Subjects in 14 CFR Part 91

Air carrier, Air taxis, Air traffic control, Aircraft, Airmen, Aviation safety, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Amend § 91.703 as follows:
■ a. Amend paragraphs (a)(1) and (3) by capitalizing the "a" in "Annex";
■ b. Remove the first sentence of paragraph (a)(4); and
■ c. Revise paragraph (b) to read as follows:

§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.

* * * * *

(b) Annex 2 to the Convention on International Civil Aviation, Tenth Edition—July 2005, with Amendments through Amendment 45, applicable November 10, 2016 is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the FAA must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590 and is available from the International Civil Aviation Organization (ICAO), Document Sales Unit, 999 University Street, Montreal, Quebec H3C 5H7, Canada; *http://www.ICAO.int/eshop/index.cfm*. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

§ 91.705 [Removed]

■ 3. Remove § 91.705.

§ 91.1027 [Amended]

■ 4. Amend § 91.1027(a)(2) by removing "MNPS,".

Appendix C to Part 91—[Removed]

■ 5. Remove appendix C to part 91.
■ 6. Amend appendix G to part 91 by revising paragraph (a)(2) of section 8 to read as follows:

Appendix G to Part 91—Operations in Reduced Vertical Separation Minimum (RVSM) Airspace

* * * * *

Section 8. Airspace Designation

(a) * * *

(2) RVSM may be effective in the High Level Airspace (HLA) within the NAT. The HLA airspace within the NAT is defined by the volume of airspace between FL 285 and FL 420 (inclusive) extending between latitude 27 degrees north and the North Pole, bounded in the east by the eastern boundaries of control areas Santa Maria Oceanic, Shanwick Oceanic, and Reykjavik Oceanic and in the west by the western boundaries of control areas Reykjavik Oceanic, Gander Oceanic, and New York Oceanic, excluding the areas west of 60 degrees west and south of 38 degrees 30 minutes north.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 40101(d)(1), 40103(b)(1), 40105(b)(1)(A), and 44701(a)(5) in Washington, DC, on September 14, 2016.

John S. Duncan,
Director, Flight Standards Service.

[FR Doc. 2016–22798 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1235

[Docket No. CPSC–2016–0023]

Safety Standard for Baby Changing Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards must be substantially the same as applicable voluntary standards or more stringent than the voluntary standard if the Commission determines that more stringent requirements would further reduce the risk of injury associated with a product. Pursuant to the direction under section 104(b) of the CPSIA, the Commission is

proposing a safety standard for baby changing products. The proposed rule would incorporate by reference ASTM F2388–16, *Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use* (ASTM F2388–16) into our regulations and impose more stringent requirements for structural integrity, restraint system integrity, and warnings on labels and in instructional literature. In addition, the Commission proposes to amend our regulations include the proposed safety standard for baby changing products in the list of notice of requirements (NORs) issued by the Commission.

DATES: Submit comments by December 13, 2016.

ADDRESSES: Comments related to the Paperwork Reduction Act aspects of the labeling and instructional literature requirements of the proposed mandatory standard for baby changing products should be directed to the Office of Information and Regulatory Affairs, the Office of Management and Budget, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.*

Other comments, identified by Docket No. CPSC–2016–0023, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted by mail/hand delivery/courier.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* insert docket number CPSC–2016–0023 into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Mark Kumagai, Project Manager, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2234; email: *MKumagai@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant or toddler products. Any standard the Commission adopts under this directive must be substantially the same as the applicable voluntary standard or more stringent, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product.

A "durable infant or toddler product," as defined in section 104(f)(1) of the CPSIA, is "a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years." Section 104(f)(2) lists examples of "durable infant or toddler products," such as cribs, high chairs, and strollers. Although this list of example products does not include baby changing products, baby changing products satisfy the statutory definition, as they are intended for use by children under the age of 5 years and are durable products made of sturdy material that last for several years; they are similar to the example products listed in the CPSIA; and the Commission has identified changing tables as "durable infant or toddler products" in the product registration rule that the Commission issued under section 104(d) of the CPSIA. 16 CFR 1130.2(a)(14).

Pursuant to section 104(b)(1)(A) of the CPSIA, the Commission consulted with representatives of manufacturers, consumer groups, consultants, retailers, and industry trade groups in reviewing and assessing the effectiveness of the existing voluntary standard for baby changing products, ASTM F2388–16, largely through ASTM International's (ASTM; formerly the American Society for Testing and Materials) standard-development process. The standard the Commission proposes in this notice of proposed rulemaking (NPR) is based on ASTM F2388–16 with more stringent requirements for structural integrity, restraint system integrity, and warnings on labels and in instructional literature.

The testing and certification requirements of section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) apply to the standards promulgated under section 104 of the CPSIA. Section 14(a)(3) of the CPSA requires the Commission to publish an NOR for the accreditation of third party conformity assessment bodies (*i.e.,* test laboratories) to assess whether a children's product conforms to applicable children's product safety rules. If adopted, the proposed rule for baby changing products would be a children's product safety rule that requires the issuance of an NOR. For this reason, this NPR also proposes to amend 16 CFR part 1112 to include a reference to proposed 16 CFR part 1235, the section in which the standard for baby changing products would be codified.

II. The Product

A. Definition

ASTM F2388–16 applies to baby changing tables and other changing products. The standard defines "changing tables" as "elevated, freestanding structures" designed "to support and retain a child" with a body weight up to 30 pounds (13.6 kilograms) for the purpose of a diaper change. Changing tables may convert to other furniture pieces, such as dressers or play yards, and they may have storage or other pull-out or drop-down features. ASTM F2388–16 also applies to other changing products, such as contoured changing pads and add-on changing units that are sold separately for use on furniture products other than changing tables. Contoured changing pads have barriers designed to keep children up to 30 pounds on the pad for diaper changes on elevated surfaces. Add-on changing units are used with pieces of furniture to provide changing surfaces and/or barriers to keep children on the products during diaper changes.

The majority of changing tables and add-on changing units are made of wood; contoured changing pads are generally made of a combination of synthetic-covered foam. Changing tables come in various designs, some of which include drawers, cabinets, or retractable stairs.

Throughout this NPR, the Commission uses the term "baby changing products" to refer to changing tables and other changing products, such as contoured changing pads and add-on changing units that are sold separately for use on furniture products other than changing tables.

B. Market Description

Commission staff identified 85 firms, including manufacturers, importers, and wholesalers, that supply baby changing products to the U.S. market. Seventy-one of these firms are domestic, consisting of 57 manufacturers, 12 importers, one wholesaler, and one retailer; 14 are foreign, consisting of 12 manufacturers, one importer, and one retailer. Of the domestic firms, 59 are small businesses, as discussed is Section XI. Regulatory Flexibility Act, below, and 12 are large. Eighty-one of the firms market their products to consumers, while seven also market them for commercial daycare use. Fifty-six of the firms offer multiple baby changing products.

Stand-alone changing tables intended for home use range widely in price, from approximately $35 to $1,400. Other baby changing products also vary greatly in price. Contoured changing pads range from about $7 to $100; add-on changing units, such as changing trays, range from approximately $12 to $1,050; and other baby products, such as cribs, play yards, dressers, and bath tubs, with attachable or built-in baby changing products, range from approximately $100 to $4,500.

III. Incident Data

The Commission receives data regarding product-related injuries from several sources. One such source is the National Electronic Injury Surveillance System (NEISS), from which CPSC can estimate the number of injuries associated with specific consumer products that are treated in U.S. hospital emergency departments (EDs) nationwide, based on a probability sample. Other sources include reports from consumers and others through the Consumer Product Safety Risk Management System (which also includes some NEISS data) and reports from retailers and manufacturers through CPSC's Retailer Reporting System (collectively referred to as Consumer Product Safety Risk Management System data (CPSRMS)).

Commission staff reviewed the NEISS and CPSRMS databases for incidents involving baby changing products involving children younger than 3 years old because that age corresponds with the 30-pound weight limit in the definition of "changing tables." *See* Centers for Disease Control and Prevention, National Center for Health Statistics, *Data Table of Infant Weight-for-Age Charts, http://www.cdc.gov/growthcharts/html_charts/wtageinf.htm* (last visited Aug. 5, 2016) (indicating 30 pounds is the 50th percentile weight of boys at 31 months old and girls at 34 months old). Staff considered CPSRMS data from January 1, 2005 through December 31, 2015, and NEISS data from January 1, 2005 through December 31, 2014 (NEISS data was not yet updated for 2015 at the time of analysis).

Through CPSRMS sources, the Commission has received 182 reports of incidents related to baby changing products that occurred between 2005 and 2015. These reports include five fatalities, 30 injuries or adverse health problems, 113 incidents that did not result in injuries, and 34 incidents for which the Commission did not receive sufficient information to determine whether an injury occurred.

EDs participating in NEISS reported 1,305 injuries and no deaths related to baby changing products between 2005 and 2014. Extrapolating from this probability sample, there were approximately 31,780 injuries and no fatalities related to baby changing products treated in EDs between 2005 and 2014. In analyzing the number of injuries that occurred each year between 2005 and 2014, Commission staff found that there was a statistically significant increasing trend in injuries over this period. The NEISS data also indicates that the incidence of injuries was the same for males and females and that 75 percent of the injured children were under 1 year old.

A. Fatalities

The Commission received reports of five fatalities associated with baby changing products between 2005 and 2015. The five reported deaths all involved caregivers using baby changing products as sleep products, which is not their intended use. All of the victims in these incidents were younger than 1 year old.

Four of the incidents involved play yards with changing table attachments. In one of these cases, a strap hanging from a changing table accessory in a play yard strangled a child sleeping in the play yard beneath. In the remaining four deaths, children asphyxiated while sleeping on a baby changing product; three of the products were the changing table attachments on play yards, and one was a portable changing pad placed in a crib as a sleep positioner.

In three of the reports regarding these fatalities, the caregivers and investigators appeared to be mistaken about the intended use of the product, referring to the changing table product as a "crib" and "bassinet."

B. Nonfatal Injuries

Of the 182 CPSRMS incidents related to baby changing products that occurred between 2005 and 2015, 30 reportedly resulted in injuries or adverse health problems. The most frequently cited injuries were cuts, lacerations, scratches, and bruises; however, there were several more serious injuries reported as well. Three reports indicated that the victim visited the hospital; in one incident involving a leg injury, the victim was treated and released, and in two incidents involving a skull fracture and leg fracture, respectively, the victims were admitted to hospitals.

For injuries estimated through NEISS, 94 percent were treated and released, while 5 percent were admitted to the hospital. The most commonly injured body parts were the head (71 percent) and face (13 percent). The most common types of injuries were injuries to internal organs (50 percent), contusions or abrasions (27 percent), and fractures (9 percent). Of those injuries affecting internal organs, 99 percent were head injuries; of those injuries resulting in contusions or abrasions, 83 percent affected the victim's head or face.

C. Hazard Pattern Identification

CPSC staff reviewed NEISS and CPSRMS data to identify hazard patterns associated with baby changing products. Both sets of data revealed several common hazard patterns, but because CPSRMS data sources generally provide greater detail about incidents, staff was able to identify more distinct hazard patterns using that data. Five hazard patterns emerged from staff's review: (1) Issues with structural integrity, (2) design hazards, (3) problems with restraint systems, (4) miscellaneous problems, and (5) undetermined hazards. Table 1 provides the frequency of each hazard pattern and category.

TABLE 1—HAZARD PATTERNS FOR CPSRMS INCIDENTS INVOLVING BABY CHANGING PRODUCTS BETWEEN JANUARY 1, 2005 AND DECEMBER 31, 2015

Hazard pattern	Total incidents
Structural Integrity	119
Design	38
Restraint System	14
Miscellaneous	8
Undetermined	3

Structural integrity issues include collapsing or unstable products, hardware issues, and assembly problems. This hazard pattern accounted for approximately 65 percent of CPSRMS incident reports (119 of 182 incidents). Fifty-five percent of the reported incidents in this hazard pattern involved collapsing baby changing products or parts (with 50 percent of those reports attributable to three particular models). The next most common type of structural integrity issue was unstable baby changing products.

Product design issues included limb entrapments, in parts such as slats, rails, and doors, chipping finishes, unstable steps, pinching, children hitting their heads on metal parts, and a strangulation hazard from a restraint strap in a play yard changing table accessory. Approximately 21 percent of incidents reported through CPSRMS (38 of 182) fell into this hazard pattern. The majority of these incidents involved accessory components that are common to other furniture, as well as changing tables, and are not generally accessible to children when occupying a changing table as intended.

About 8 percent of incidents (14 of 182) related to restraint systems, which include loose, broken, or detached straps, cracked or faulty buckles, pinching, choking on small parts, and the absence of a restraint system.

Approximately 4 percent of CPSRMS incidents (8 of 182) involved miscellaneous issues, including chemical odors and the use of changing tables for unintended purposes, such as sleeping. All of the deaths associated with baby changing products involved children sleeping on the products.

Two percent of the incident reports (3 of 182) did not provide sufficient information for Commission staff to identify a hazard pattern.

The most frequently reported event associated with an injury in both NEISS and CPSRMS data involved children falling off, or through, baby changing products. Within NEISS data, 94 percent of injuries involved falls, while 64 percent of non-fatal CPSRMS incidents involved children falling from baby changing products. These incidents were prevalent in the structural integrity and restraint system hazard patterns. Eight of the CPSRMS fall incidents were the result of the baby changing product or supporting structure collapsing. Ten of the 14 restraint system incidents resulted in actual or potential falls, and one resulted in injury.

Some of the fall incidents resulted in injuries of varying severity. Within the NEISS incidents, several of the fall injuries resulted in a serious head injury, such as a concussion or fractured skull. Ten CPSRMS incidents involving falls also resulted in injuries. One of these 10 incidents resulted in a fractured skull, one a fractured leg, seven involved minor injuries, such as bruises, scratches, and lacerations that did not require medical attention and one did not indicate the severity of injury. Additionally, in several cases, caregivers reported catching a falling child, potentially preventing injuries.

D. Product Recalls

Since January 1, 2005, two firms have recalled baby changing products. In 2006, one firm recalled approximately 130 baby changing products, due to a fall hazard. The products included cloth sections secured by zippers to support occupants. The firm found that if the zipper was misaligned, the cloth section supporting an occupant could detach. In 2007, a second firm recalled approximately 425,000 baby changing products. The product was an infant play yard with a raised changing table accessory that had a restraint strap that formed a loop beneath the changing table, posing a strangulation hazard to a child in the play yard. This recalled product was associated with one child's death.

IV. International Standards for Changing Tables

CPSC is aware of two international standards that apply to baby changing products:

- ASTM F2388–16, and
- British/European Standard BS EN 12221: 2008, *Child use and care articles—Changing units for domestic use, Part 1: Safety requirements, Part 2: Test methods* (European standard).

CPSC staff reviewed the provisions in these standards and believes that ASTM F2388–16 best addresses the hazard patterns indicated in the incident data, and in most areas, ASTM F2388–16 includes more stringent requirements than the European standard. For example, although both standards require barrier durability testing, ASTM F2388–16 requires pre-conditioning or aging of contoured changing pads before testing. In contrast, the European standard does not require precondition or aging, which makes ASTM F2388–16 the more stringent standard.

There are some areas in which the European standard includes more stringent requirements than ASTM F2388–16. For example, the European standard limits the dimensions of cords and loops, while ASTM F2388–16 does not. However, the incident data does not indicate that cords or loops present a safety hazard, apart from the one strangulation death involving a loop in a play yard, but the play yard standard has since been updated to address that hazard. In reviewing this and other provisions in which the European standard is more stringent than ASTM F2388–16, Commission staff found that the incident data does not indicate that the more stringent requirement is necessary to reduce the risk of injury, and further determined that the requirements in ASTM F2388–16 are sufficient.

Some requirements in the two standards differ in ways that make it difficult to compare their relative stringency. Nevertheless, for these requirements, Commission staff believes that ASTM F2388–16 arguably is more stringent, the incident data does not demonstrate that the European standard is necessary, or the additional requirements proposed in this NPR are the most effective method of addressing the risk. For example, the stability tests in ASTM F2388–16 and the European standard differ in ways that make them difficult to compare, but the incident data indicates that tip-over incidents are not an issue, which suggests that ASTM F2388–16, to which many manufacturers conform, is adequate. Likewise, the load tests in ASTM F2388–16 and the European standard differ, but staff believes that the ASTM test reflects actual load conditions better. Moreover, this NPR proposes additional, more stringent requirements for this test that are not in either standard.

Based on these comparisons, CPSC believes that ASTM F2388–16, in general, is more stringent than the European standard and is better tailored to address the hazard patterns evident in the incident data.

V. ASTM F2388–16

A. History of ASTM F2388–16

ASTM first approved and published a standard for baby changing products in July 2004, as ASTM F2388–04, *Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use*. ASTM has revised the voluntary standard several times since then, adding and modifying requirements. Some of the more substantial revisions, to date, include:

- Expanding the scope of the standard to include changing table products, such as contoured changing pads and add-on changing units;
- requiring preconditioning before conducting barrier testing on contoured changing pads;
- marking packaging with the maximum occupant weight; and
- requiring toy accessories to comply with applicable safety requirements.

ASTM approved the current version of the standard, ASTM F2388–16, on July 1, 2016.

B. Description of ASTM F2388–16

CPSC staff, together with stakeholders on the ASTM subcommittee task group for baby changing products, developed modified and new requirements for ASTM F2388–16 to address the hazards associated with these products. ASTM F2388–16 includes the following key provisions: Scope, terminology, calibration and standardization, general requirements, performance requirements, test methods, marking and labeling, and instructional literature. The following provides an overview of these provisions. To view the complete standard, see the instructions in Section IX. Incorporation by Reference.

1. Scope

This section states the scope and intent of the standard.

2. Terminology

This section provides definitions of terms specific to the standard.

3. Calibration and Standardization

This section provides general instructions for conducting tests.

4. General Requirements

This section includes general requirements addressing various safety issues, such as sharp edges and points, small parts, lead in paint, wood parts, openings, changing table attachments to play yards and non-full-size cribs, and toy accessories.

5. Performance Requirements and Test Methods

These sections contain performance requirements and associated test methods for baby changing products. The following summarizes key requirements in these sections.

a. *Protective Components:* These requirements provide for testing protective components, such as caps and plugs.

b. *Structural Integrity:* A changing table must not break or fail any other requirements after applying a specified weight for a set time period. The purpose of this requirement is to test whether changing tables can withstand the loads they will bear. Contoured changing pads and add-on changing units that are sold separately are not subject to this requirement.

c. *Stability:* A changing table must not tip over when pushed downward by a specified force on the edge most likely to cause the product to tip over. The purpose of this requirement is to test the changing table's resistance to tipping over if there is weight on the edge of the product. Contoured changing pads and add-on changing units that are sold separately are not subject to this requirement.

d. *Barriers:* Baby changing products must include barriers that are integral to the product. These barriers must be on all sides of flat changing surfaces and two sides of contoured surfaces. Barriers must not break or fail any other requirements or allow a test object to fall when holding a rolling test weight at an incline. Contoured changing pads must withstand this test after preconditioning or aging. The purpose of this requirement is to prevent children from rolling off of baby changing products or being injured by damaged barriers.

e. *Retention of Contoured Changing Pads and Add-on Changing Units:* Contoured changing pads and add-on changing units must not move more than a specified distance during the barrier testing described above. The purpose of this requirement is to prevent children from falling when they move on baby changing products. Changing table accessories for non-full-size cribs and play yards are not subject to this requirement because they are subject to a similar requirement in another standard.

f. *Entrapment in Enclosed Openings:* Any completely-bounded openings that are accessible to children in or near the base of a changing table must meet specified dimension limits for gaps and openings. The purpose of this requirement is to prevent children's heads from becoming entrapped in openings.

g. *Entrapment by Shelves:* Any shelf that is not enclosed in doors and that is within a specified distance from the floor must not permit a probe, designed to simulate a child's head, to pass through. The purpose of this requirement is to prevent children from becoming entrapped in shelves on baby changing products.

6. Permanency of Labels and Warnings

This section specifies testing and criteria for determining the permanency of labels.

7. Marking and Labeling

This section contains various requirements related to warnings, package markings, and labels including content, format, and placement requirements.

8. Instructional Literature

This section requires instructions to accompany baby changing products, be easy to read and understand, and include specific content.

C. Ongoing Revisions of ASTM F2388–16

ASTM, with the participation of CPSC staff, has continued to review the effectiveness of ASTM F2388–16 in light of incidents and hazard patterns. As a result, ASTM has developed additional requirements that are currently under review. ASTM participants have voted on some of these changes and submitted comments, and the committee reviewing ASTM F2388–16 is working to resolve these comments. The requirements that the Commission proposes in this NPR that are more stringent than the requirements in ASTM F2388–16 are the same as, or similar to, the requirements ASTM is currently reviewing. ASTM has authorized the Commission to print requirements that are the same as, or similar to, those ASTM drafted and is currently reviewing.

Additionally, an ASTM group, referred to as the ASTM Ad Hoc Wording Task Group, with CPSC staff's input, has reviewed warning requirements, in general, to develop one set of requirements that would be useful for various standards. The ASTM Ad Hoc Wording Task Group developed recommendations for product warnings, particularly focusing on form, to provide effective and uniform warning requirements that can be adapted for various products. The goal of this effort was to have one consistent set of requirements from which ASTM committees could draw and adjust, as necessary, when developing or revising individual product standards. The result of the group's work is a set of recommendations, rather than a formalized standard. The ASTM Ad Hoc Wording Task Group requested ASTM participants' input on these recommendations in early 2016, received feedback, and has since finalized its warning recommendations.

However, as the group continues to review issues, it may revise and update these recommendations. The labeling and instructional literature requirements that the Commission proposes in this NPR that differ from those in ASTM F2388–16 are drawn from the ASTM Ad Hoc Wording Task Group's recommendations. ASTM authorized the Commission to publish content from these recommendations in this NPR.

Because of the ongoing review and revision of ASTM F2388–16 and the ASTM Ad Hoc Wording Task Group's recommendations, the Commission may, after reviewing comments, finalize the rule as proposed in this NPR or incorporate by reference a revised ASTM standard if that standard adopts changes consistent with the requirements that the Commission proposes in this NPR.

VI. Assessment of ASTM F2388–16

CPSC staff evaluated ASTM F2388–16 in light of the fatalities, injuries, and non-injury incidents associated with baby changing products that occurred between January 1, 2005 and December 31, 2015 to determine whether the voluntary standard addresses the risk of injury associated with baby changing products or whether a more stringent standard would further reduce the hazards. CPSC believes that ASTM F2388–16 effectively addresses the hazards indicated in the incident data, with the exception of three areas—structural integrity, restraint system integrity, and warnings on labels and in instructional literature. CPSC proposes more stringent requirements for these areas to further reduce the risk of injury associated with baby changing products.

This section provides CPSC's assessments of how ASTM F2388–16 addresses the hazard patterns shown in the incident data.

A. Structural Integrity

There were 119 CPSRMS incidents involving the structural integrity of baby changing products. The most common incidents in this category involved unstable changing tables and collapses, with the majority of incidents (55 of 119) involving changing table surfaces cracking or collapsing. More than half of these reports involved three particular changing table models. Falls resulting from these instability issues or collapses made up the majority of injuries reported through NEISS and 80 percent of the injuries reported through CPSRMS.

Although most of the reported collapses resulted in minor injuries, such as scrapes and bruises, falls have the potential for serious injuries, such as severe head injuries, which can have long-term effects. As mentioned, some fall injuries have resulted in serious head injuries, such as concussions and fractured skulls, or other fractured bones. Serious head injuries, such as concussions and skull fractures, can cause extensive brain damage and affect development.

The next most common problem in this category was unstable baby changing products, half of which involved cantilevered changing accessories for play yards tilting under the weight of an occupant. No injuries were reported for these incidents.

ASTM F2388–16 has two provisions intended to address the structural integrity of changing tables—a stability test and a structural integrity test. The stability test requires a product to remain upright when testers apply a load that is greater than the maximum recommended weight limit for product occupants to the edge most likely to tip over. The structural integrity test requires baby changing products to withstand a specified load for a set amount of time, without damage.

In addition, ASTM F2388–16 requires baby changing products to have warning labels with specific content about fall hazards, and requires instructions on secure use of contoured changing pads and add-on changing units. ASTM F2388–16 also includes form and placement requirements for warnings and similar content requirements for instructional literature to make the warnings and instructions visible and understandable.

The stability and structural integrity tests have been in ASTM F2388, in a similar form, since ASTM first published the standard in 2004. However, despite these requirements, the incident data still reveals a high occurrence of structural integrity issues. Likewise, fall incidents continue, despite the warnings required in ASTM F2388–16. Therefore, CPSC believes that more stringent requirements would further reduce the risk of injury from collapses and falls. Section VII. Description of Proposed Changes to ASTM Standard, discusses CPSC's proposed requirements regarding threaded fasteners, secondary support straps, and warnings that address this hazard.

B. Design

There were 38 CPSRMS incidents involving design hazards. These issues included children becoming entrapped in gaps between vertical slats and beneath horizontal rails; children pinching their fingers in drawers or doors; and problems with finishes, such as chipped surface coatings. There was also one fatality associated with this hazard pattern, in which a changing accessory restraint strap in a play yard strangled a child.

Several general requirements in ASTM F2388–16 address this hazard pattern, including provisions on sharp points and edges, small parts, surface coatings, wood parts, and openings. ASTM F2388–16 also includes specific performance requirements for protective components and to prevent entrapments in enclosed openings and shelves. Additionally, ASTM has since revised its play yard standard to address the changing accessory restraint strap hazard.

Most of the incidents in this category involved accessory components that are common in many other types of furniture and are not accessible to children when they are in the changing table as intended. All of the pinching incidents involved children who were not on the baby changing product and involved the same hazard that is present on numerous other furniture items. Commission staff also found that the gaps in changing tables that have entrapped children's limbs are similar in size and shape to spaces between crib slats. When the Commission reviewed the same entrapment hazard for cribs, it found that reducing opening sizes may not prevent entrapments, but instead, may result in younger children being entrapped or pinched, making it difficult to develop a requirement that would prevent all entrapments.

Consequently, the Commission believes that ASTM F2388–16 adequately addresses this hazard pattern and more stringent requirements would not further reduce the risk of injury.

C. Restraint Systems

There were 14 CPSRMS incidents involving restraint systems, including broken straps, detached straps, loose or broken buckles, and concerns that products did not have restraint systems. Ten of these 14 incidents resulted in actual or potential falls, and one resulted in an injury. One of these reports, and several other fall incident reports, indicated that the caregiver was near the child at the time of the fall, indicating that incidents can occur even when a caregiver is nearby.

ASTM F2388–16 does not include any requirements regarding restraint systems. It does not require restraint systems in baby changing products, but also does not prohibit them; nor does the standard include any performance requirements for restraint systems that are included with products. There are several factors that support not requiring restraint systems. First, barrier requirements in ASTM F2388–16 address the hazard of children rolling off of baby changing products, serving the same safety purpose as a restraint system. Second, it is difficult to design a restraint system that adequately restrains a child and also allows enough mobility for a caregiver to change the child's diaper. The most effective restraint systems are 3-point and 5-point restraints, which would limit a caregiver's ability to change a child's diaper. And third, restraints may give caregivers a sense of safety that diminishes their attentiveness.

CPSC believes that ASTM F2388–16 requirements, particularly regarding barriers, adequately address the risks that restraint systems are designed to mitigate. Accordingly, it is not necessary to require restraint systems on baby changing products. Therefore, the Commission is not proposing a more stringent requirement to mandate the presence of restraint systems on baby changing products. However, the incident data suggests that when a restraint system is present, caregivers expect it to be effective. If caregivers expect restraints to be effective, they are likely to rely on them, necessitating that the restraints function effectively when included on a product.

Because there are numerous incidents involving restraint systems breaking during normal use, the Commission considers the existing absence of restraint system requirements to be inadequate. As such, when restraints are provided, the Commission believes that more stringent requirements regarding restraint system integrity would further reduce the risk of injury. Section VII. Description of Proposed Changes to ASTM Standard, discusses CPSC's proposed requirements regarding restraint systems.

D. Miscellaneous

There were eight CPSRMS incidents involving miscellaneous issues with baby changing products. These reports included complaints of chemical odors and caregivers using baby changing products as sleep products. Each of the five reported deaths related to baby changing products involved children sleeping on the products. In three of these deaths, caregivers placed the child in the changing accessory of a play yard to sleep. In all three cases, the investigatory reports suggest that consumers may view baby changing products as suitable for sleep because parents and law enforcement personnel, in reporting these incidents, mistakenly referred to the play yard changing accessories as "cribs" or "bassinets."

ASTM F2388–16 addresses the chemical content of baby changing products, requiring compliance with 16 CFR part 1303, which bans paint containing lead. Given this requirement, the low incidence of issues, and no injuries involving odors or chemicals, the Commission believes that ASTM F2388–16 adequately addresses this issue.

With respect to caregivers using baby changing products as sleep products, ASTM F2388–16 does not include any requirements to address this safety issue. However, five deaths resulted from children sleeping on baby changing products, which is not their intended use. The Commission believes that more stringent requirements are necessary to reduce the risk of injury associated with this hazard. Section VII. Description of Proposed Changes to ASTM Standard, discusses CPSC's proposed requirements regarding warnings and instructional literature that would address this hazard.

E. Undetermined

Three CPSRMS reports involving baby changing products did not provide sufficient information for CPSC to determine how the incidents occurred. Thus, the Commission cannot assess the effectiveness of ASTM F2388–16 in addressing these issues.

VII. Description of Proposed CPSC Standard for Baby Changing Products

The proposed rule would create part 1235, titled, *Safety Standard for Baby Changing Products*. As explained, the Commission believes that ASTM F2388–16 effectively addresses the safety hazards associated with baby changing products, with the exception of structural integrity, restraint system integrity, and warnings on labels and in instructional literature. For this reason, the Commission proposes to incorporate by reference ASTM F2388–16, with modified requirements for structural integrity, restraint system integrity, and warnings on labels and in instructional literature. This section discusses the proposed modifications.

A. Structural Integrity

Based on the incident data, CPSC believes that a more stringent standard for structural integrity than what is in ASTM F2388–16 would further reduce the risk of injury from collapses and falls from baby changing products. To identify requirements that would address these hazards, Commission staff reviewed incident data, evaluated design features common in baby changing products involved in incidents, and tested various baby changing products. Based on this information, Commission staff, together with ASTM, developed two provisions regarding threaded fasteners and secondary support straps to improve the structural integrity of baby changing products. Additionally, CPSC staff developed requirements for warnings in labels and instructional literature to address these issues.

1. Threaded Fasteners

Commission staff noted that many of the baby changing products involved in collapse incidents required consumers to assemble the products using self-tapping threaded fasteners, such as wood or sheet metal screws. Threaded fasteners can be difficult to install properly, and installing them incorrectly or attempting to install them multiple times can make the assembled product unstable. Multiple attempts to install threaded fasteners can strip the fastener; an over-tightened threaded fastener may crack the part it is attached to; and an under-tightened threaded fastener can create an insecure connection between parts. These issues are particularly likely with durable products, such as baby changing products, which a consumer may disassemble and reassemble for use with multiple children. Several ASTM standards for durable children's products have recognized the potential for consumers to install threaded fasteners improperly, resulting in unstable products, and certain standards prohibit them in key structural elements that consumers assemble.

For these reasons, the Commission proposes additional requirements that would provide for secure connections between fasteners and key structural elements of changing tables and products. Specifically, the Commission proposes to:

- Prohibit the use of threaded fasteners on key structural elements assembled by consumers;
- require a means of preventing manufacturer-installed metal threaded fasteners used in key structural elements from loosening (such as with lock washers); and
- require a means of preventing manufacturer-installed metal inserts in key structural elements from loosening (such as by gluing).

The Commission proposes these limits for key structural elements, such as primary changing surface supports and side, end, base, and leg assemblies to address the stability of components that support the weight of occupants. CPSC believes that these more stringent standards would further reduce the risk of injury associated with baby changing products collapsing.

2. Secondary Support Straps

Commission staff examined many of the baby changing products involved in reported incidents through photographs, by collecting some of the products, and by purchasing changing tables from consumers to examine their post-use condition. Through these examinations, staff observed that several consumers had not installed secondary support straps at all, or had installed them improperly. A secondary support strap is a metal band that runs under the center of the changing surface to provide additional support. Secondary support straps are generally one of the last components that consumers install when assembling baby changing products. If a consumer does not install the strap, or installs the strap incorrectly, the product does not have the added support this feature provides to enhance the product's structural integrity.

To accurately test the structural integrity of baby changing products, the Commission believes that structural integrity testing should reflect the least structurally sound condition the product may be in when consumers use it. Given that consumers often do not install secondary support straps or install them incorrectly, products should be tested without consumer-installed secondary support straps attached. Therefore, the Commission proposes to adopt the structural integrity testing required in ASTM F2388–16, but modify the test to specify that consumer-installed secondary support straps not be installed for the test. CPSC believes that this more stringent standard would further reduce the risk of injury associated with baby changing product collapses.

B. Restraint Systems

ASTM F2388–16 does not require or prohibit restraint systems on baby changing products and does not contain any performance requirements for restraint systems that are included with these products. As discussed, although the Commission does not believe it is necessary to require restraint systems for baby changing products, the Commission does believe that a performance standard that requires restraint systems to be effective and durable when they are included with a baby changing product would further reduce the risk of injury from falls.

To develop requirements for restraint systems that would address the hazard pattern evident in the incident data, CPSC staff conducted lab testing of products and worked with an ASTM task group to review the incident data and ASTM standards addressing restraint systems in other durable children's products. As a result of this effort, the group developed a performance test for restraint systems that identifies baby changing products that were involved in restraint system failures. This test requires any restraint provided with a baby changing product to be secured on a CAMI dummy and pulled in four directions anticipated during normal use with a 30 pound force. To pass this performance standard, straps and buckles must not break or separate from baby changing products more than 1 inch from their initial adjustment positions. CPSC believes that this more stringent standard would further reduce the risk of injury associated with restraint systems, by ensuring that those included with baby changing products function effectively.

C. Warnings in Labels and Instructional Literature

As discussed, the most commonly-reported incidents involving baby changing products were falls, and the most common cause of fatalities was children sleeping on baby changing products. ASTM F2388–16 requires warnings about falls on labels and in instructional literature, but the standard does not require any warnings about the suffocation hazard when children sleep on baby changing products. Considering the frequency and severity of reported incidents and deaths, CPSC believes that more stringent requirements would further reduce these risks of injury and death.

To develop appropriate warning requirements, Commission staff examined incident data and research on effective warnings, and worked with the ASTM Ad Hoc Wording Task Group. To further reduce the risk of injury associated with falls and children sleeping on baby changing products, the Commission proposes additional content and form provisions for on-product warning labels and parallel requirements for instructional literature. Tab E of CPSC staff's briefing package for this proposed rule includes additional details about these proposed requirements and the rationale for adding them. The briefing package is available at: *http://www.cpsc.gov/Newsroom/FOIA/Commission-Briefing-Packages/*.

1. Content

Section 9 of ASTM F2388–16 requires baby changing products to be labeled with a warning that states: "FALL HAZARD—To prevent death or serious injury, always keep child within arm's reach." Additionally, removable pads that are intended to be attached to a support surface must warn users: "Always secure this pad to the support surface by [insert instructions on securing the changing pad]. See instructions." And for contoured changing pads and add-on changing units sold separately, warnings must specify products they attach to or specify that the support surface should be "level, stable, and structurally sound," along with the minimum support surface dimensions. Section 10 of ASTM F2388–16 requires the same warnings to appear in instructional literature for baby changing products.

ASTM F2388–16 does not include warning requirements regarding children sleeping on baby changing products.

To develop proposed warning language, Commission staff reviewed information developed through research on the content of warnings, assessed other standards, and reviewed the ASTM Ad Hoc Wording Task Group recommendations. Literature and guidelines about warnings consistently recommend that warnings include:

- A description of the hazard;
- information about the consequences of exposure to the hazard; and
- instructions about appropriate hazard-avoidance behaviors.

Studies indicate that when a person receives information about a hazard, its consequences, and mitigating actions, that information motivates appropriate behavior.

The Commission believes that the warning statements in ASTM F2388–16 lack important details regarding fall and suffocation hazards, their consequences, and appropriate avoidance behaviors. Moreover, the Commission believes that the warning statements in the standard provide only a vague description of the types of injuries that may occur from falls and the statements do not refer to suffocation at all. The Commission believes that strengthening the requirements in ASTM F2388–16 would further reduce the risk of injury associated with falls and suffocation. Additionally, the Commission believes that these proposed changes would improve readability and consistency across standards. CPSC developed the following proposed language to describe the specific hazards, consequent injuries and dangers, and precise actions that can help reduce the likelihood of falls and suffocation. CPSC proposes to require the following warning label to appear on baby changing products:

Fall hazard. Children have suffered serious injuries after falling from changing [tables/pads/areas]. Falls can happen quickly.

- STAY in arm's reach.

Manufacturers will select one of the terms in brackets, or a similar term, that most-appropriately describes the particular product. Similarly, CPSC proposes to require the following warning label to appear on contoured changing pads that attach to a support surface and changing products that attach to play yards:

Fall hazard. Children have suffered serious injuries after falling from changing [tables/pads/areas]. Falls can happen quickly.

- STAY in arm's reach.
- ALWAYS secure this pad to the support surface by [manufacturer's instructions for securing the changing product].

Suffocation hazard. Babies have suffocated while sleeping on changing pads. Changing pad is not designed for safe sleeping.

- NEVER allow baby to sleep on changing pad.

Manufacturers will select one of the terms in brackets, or a similar term, that most-appropriately describes the particular product. The Commission proposes to require the same modifications to the content of the warnings in instructional literature.

Additionally, the Commission proposes minor changes to the language in section 9 of ASTM F2388–16, as detailed in the proposed regulatory text, to make the warnings clearer, and thereby, more effective and consistent with similar standards.

2. Form

Research indicates that the form of a warning can affect the extent to which consumers notice and read the warning and can communicate the seriousness of a hazard, which can affect compliance with the warning. ASTM F2388–16 does not include any form requirements for on-product warnings, apart from text size, and does not include any form requirements for warnings in instructional literature.

As discussed, Commission staff worked closely with the ASTM Ad Hoc Wording Task Group to develop recommendations for product warnings, particularly focused on form, to provide effective and uniform warning requirements. The requirements for warnings on labeling and in instructional literature that the Commission is proposing in this NPR are drawn from the ASTM Ad Hoc Wording Task Group's recommendations.

The ASTM Ad Hoc Wording Task Group's recommendations are largely consistent with ANSI Z535.4, *Product Safety Signs and Labels* (ANSI Z535.4; available at: *http://www.ansi.org/*), which provides guidance on warning label designs, specifically addressing the design, application, use, and placement of on-product warning labels. ANSI Z535.4 is the primary U.S. voluntary consensus standard for product safety signs and labels and CPSC's Division of Human Factors staff uses the standard regularly. ANSI Z535.4 includes requirements about signal words; sign and label format, arrangement, and placement; word messages; colors; borders; letter styles and sizes; and the durability of labels.

CPSC considered research on effective forms for warnings, including the requirements in ANSI Z535.4, in developing the proposed form requirements. Commission staff and the ASTM Ad Hoc Wording Task Group modified these requirements to account for the unique nature of durable nursery products, the wide range of such products, industry concerns, and insights from CPSC's past rulemakings on durable nursery products. The resulting recommendations and the requirements the Commission proposes in this NPR are designed to increase consumer attention to warnings, improve comprehension, and increase behaviors that would minimize hazards. These proposed requirements include:

- Warnings must conform to the 2011 edition of ANSI Z535.4, which is incorporated by reference into the regulations with certain exceptions;
- warnings must be easy to read and understand, and be in English;
- warnings must be permanent;
- additional markings or labels must not contradict the required warning information or be confusing or misleading; and
- the specific typefaces, size, alignment, layout, and text formats to use to facilitate readability.

The Commission believes that these requirements would further reduce the risk of injury associated with falls and suffocation, by making the warnings regarding these risks more effective. The Commission proposes the same design requirements for on-product warnings and warnings in instructional literature, except that instructional literature need not meet the color requirements in ANSI Z535.4.

Additionally, CPSC proposes to include a note in the regulatory text, referencing ANSI Z535.6, *Product Safety Information in Product Manuals, Instructions, and Other Collateral Materials* (ANSI Z535.6; available at: *http://www.ansi.org/*), for optional additional guidance about the design of product safety messages in instructional literature. CPSC does not propose to require compliance with ANSI Z535.6, but the standard may offer regulated entities additional useful information for developing effective warnings in instructional literature. Although the Commission believes compliance with this standard is advisable, product instructions vary greatly, depending on the product, purpose, content, length, and other factors. Thus, the Commission believes it is appropriate to reference ANSI Z535.6, but not mandate compliance with it.

3. Placement

ASTM F2388–16 requires warning labels to be "conspicuous," that is, visible to a caretaker standing in a place normally associated with changing a diaper. The Commission believes that this requirement is adequate because it provides caregivers the opportunity to see a warning during routine use of the product and just before they would leave a child unattended, sleeping, or out of their reach on the baby changing product. This requirement is also consistent with ANSI Z535.4.

D. Miscellaneous Additional Requirements

The Commission also proposes several additional minor changes that would further reduce the risk of injury associated with baby changing products and provide greater clarity or detail regarding requirements in ASTM F2388–16. These include:

- Adding definitions for "key structural elements" and "non-rigid add-on changing unit accessory";
- adding a provision to prohibit components attached by screws from separating more than 0.04 in. (1 mm) after structural integrity testing; and
- requiring a marking including both the address and telephone number of the manufacturer, distributor, or seller, rather than one or the other.

The proposed definitions would add clarity to the standard and are relevant to the additional requirements. "Key structural elements" are central to the proposed requirements regarding threaded fasteners, and specific requirements for "non-rigid add-on changing unit accessories" are in the proposed labeling provisions. The separation limit would further reduce the risk of injury associated with structural integrity issues demonstrated in the incident data. Providing the address, as well as the telephone number for firms that supply baby changing products would provide the

Commission and consumers with more complete contact information, in case it is necessary to contact a supplier. This would expedite any safety measures necessary and thereby, reduce the risk of safety hazards.

VIII. Amend 16 CFR Part 1112 To Include NOR for Baby Changing Products Standard

Section 14 of the CPSA establishes requirements for product testing and certification. Manufacturers of products that are subject to a consumer product safety rule under the CPSA or another rule the Commission enforces must certify, based on product testing, that their product complies with all such rules. 15 U.S.C. 2063(a)(1). Additionally, manufacturers of children's products that are subject to a children's product safety rule must have these products tested by a third party conformity assessment body that CPSC has accredited, and manufacturers must certify that their products comply with all applicable children's product safety rules. *Id.* at 2063(a)(2). The Commission must publish an NOR for the accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule. *Id.* at 2063(a)(3). Because the proposed rule is a children's product safety rule, if the Commission issues 16 CFR part 1235, *Safety Standard for Baby Changing Products,* as a final rule, the CPSC must also issue an NOR.

The Commission published a final rule, codified at 16 CFR part 1112, titled, *Requirements Pertaining to Third Party Conformity Assessment Bodies,* which established requirements for accreditation of third party conformity assessment bodies to test for conformity with children's product safety rules in accordance with the CPSA. 78 FR 15836 (Mar. 12, 2013). Part 1112 also codifies all of the NORs that the Commission previously issued.

NORs for new children's product safety rules, such as the baby changing products standard, require the Commission to amend part 1112. To accomplish this, as part of this NPR, the Commission proposes to amend part 1112 to add baby changing products to the list of children's product safety rules for which CPSC has issued an NOR.

Test laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test for compliance with the proposed standard for baby changing products would be required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements of a CPSC-accepted third party conformity assessment body, the laboratory can apply to CPSC to have 16 CFR part 1235, *Safety Standard for Baby Changing Products,* included in the laboratory's scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC Web site at: *www.cpsc.gov/labsearch.*

IX. Incorporation by Reference

Section 1235.1 of the proposed rule incorporates by reference ASTM F2388–16 and ANSI Z535.4. The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, in the preamble of the NPR, an agency must summarize the incorporated material and discuss the ways in which the material is reasonably available to interested parties or how the agency worked to make the materials reasonably available. 1 CFR 51.5(a). In accordance with the OFR's requirements, Section V. ASTM F2388–16 of this preamble summarizes the provisions of ASTM F2388–16 and Section VII. Description of Proposed Changes to ASTM Standard summarizes the provisions of ANSI Z535.4 that the Commission proposes to incorporate by reference.

ASTM F2388–16 is copyrighted material. By permission of ASTM, interested parties may view the standard as a read-only document during the comment period of this NPR at: *http://www.astm.org/cpsc.htm.* Interested parties may also purchase a copy of ASTM F2388–16 from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; *http://www.astm.org/cpsc.htm.*

ANSI Z535.4 is also copyrighted material. Interested parties may purchase a copy of ANSI Z535.4 from the American National Standards Institute (ANSI), 1899 L Street NW., 11th Floor, Washington, DC 20036, or through the ANSI Web site at: *https://www.ansi.org.*

Interested parties may also inspect copies of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone 301–504–7923.

X. Effective Date

The Administrative Procedure Act (5 U.S.C. 551–559) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). To allow time for baby changing products to come into compliance with the standard, the Commission proposes that the standard become effective 6 months after publication of the final rule in the **Federal Register**. Without evidence to the contrary, CPSC generally considers 6 months to be sufficient time for suppliers to come into compliance with a new standard, and 6 months is typical for other CPSIA section 104 rules. Six months is also the period that the Juvenile Products Manufacturers Association (JPMA) typically allows for products in its certification program to transition to a new standard after publication.

The Commission also proposes that the amendment to part 1112 become effective 6 months after publication of the final rule.

The Commission requests comments on the proposed effective date.

XI. Regulatory Flexibility Act

A. Introduction

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) requires agencies to consider the impact of proposed rules on small entities, including small businesses. Section 603 of the RFA requires the Commission to prepare an initial regulatory flexibility analysis (IRFA) and make it available to the public for comment when the NPR is published. The IRFA must describe the impact of the proposed rule on small entities and identify significant alternatives that accomplish the statutory objectives and minimize any significant economic impact of the proposed rule on small entities. Specifically, the IRFA must discuss:

- The reasons the agency is considering the action;
- the objectives of and legal basis for the proposed rule;
- the small entities that would be subject to the proposed rule and an estimate of the number of small entities that would be impacted;
- the reporting, recordkeeping, and other requirements of the proposed rule, including the classes of small entities subject to it and the skills necessary to prepare the reports or records; and
- the relevant federal rules that may duplicate, overlap, or conflict with the proposed rule.

5 U.S.C. 603.

This section summarizes the IRFA for this proposed rule. The complete IRFA is available in Tab F of staff's briefing package for this proposed rule, available at: *http://www.cpsc.gov/Newsroom/FOIA/Commission-Briefing-Packages/.* To summarize, the Commission cannot rule out a significant economic impact for 40 of the 59 (68 percent) small entities that supply baby changing products in the U.S. market.

B. Market Description

CPSC identified 85 firms that supply baby changing products to the U.S. market. Seventy-one of these firms are domestic (57 manufacturers, 12 importers, one wholesaler, and one retailer), and 14 are foreign (12 manufacturers, one importer, and one retailer). Eighty-one of these firms market their products to consumers, while seven also market their products for commercial daycare use. Fifty-six offer multiple types of baby changing products.

C. Reason for Agency Action, Objectives, and Legal Basis for Proposed Rule

Section 104 of the CPSIA requires the CPSC to promulgate mandatory standards for durable infant or toddler products that are substantially the same as a voluntary standard or more stringent than the voluntary standard if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. As discussed in Section I. Background and Statutory Authority, baby changing products are durable infant or toddler products.

D. Description of the Proposed Rule

CPSC proposes to adopt ASTM F2388–16 with modifications to the structural integrity requirements, restraint system requirements, and provisions on warnings on labels and instructional literature. Section V. ASTM F2388–16 of this preamble discusses key provisions of ASTM F2388–16 and Section VII. Description of Proposed Changes to ASTM Standard discusses the proposed requirements that are more stringent than ASTM F2388–16. To help evaluate the economic impact of the proposed rule, Commission staff contacted nine industry members who would be impacted by the rule, and three responded.

E. Other Relevant Federal Rules

CPSC has not identified any federal or state rules that would duplicate, overlap or conflict with the proposed rule.

F. Impact of the Proposed Rule on Small Businesses

Under U.S. Small Business Administration (SBA) guidelines, a baby changing product manufacturer is a small business if it has 500 or fewer employees; importers and wholesalers are small businesses if they have 100 or fewer employees. CPSC analyzed domestic firms because SBA guidelines and definitions apply to U.S. entities. CPSC identified 85 firms that currently market baby changing products in the United States; 71 are domestic firms. Fifty-nine of these firms (49 manufacturers, 9 importers, and 1 wholesaler) are small businesses, based on the SBA guidelines and available information about the firms.

To determine the extent to which the proposed rule would impact small businesses, the Commission identified firms that comply with ASTM F2388–16 by considering the following factors: JPMA certification, the firm's claims of compliance, active participation in ASTM standards development, and CPSC compliance testing. Table 2 lists the number of firms by location, size, type, and compliance:

TABLE 2—FIRMS THAT MARKET BABY CHANGING PRODUCTS IN THE U.S.

Category	Number of firms
Domestic	71
Small	59
Manufacturers	49
Compliant with ASTM F2388	22
Not Compliant with ASTM F2388	27
Importers and Wholesalers	10
Compliant with ASTM F2388	4
Not Compliant with ASTM F2388	6
Large	12
Foreign	14
Total	85

Looking first at the proposed requirements that would prohibit the use of consumer-installed threaded fasteners in key structural elements, the Commission believes that the overall economic impact of this requirement would be small. CPSC testing indicates that most baby changing products on the market already follow this restriction and non-compliant firms could make inexpensive changes to meet this requirement.

With respect to structural integrity testing without consumer-installed secondary support straps, it is possible that some firms would incur costs to comply with this requirement. CPSC testing indicates that some products do not pass structural integrity testing without their consumer-installed secondary support straps; however, these products are not currently on the market. The cost of complying would vary, depending on the modifications that a firm adopts.

Next, the Commission proposes to adopt a structural integrity test for restraints when they are included with a product. The Commission found that approximately 21 percent of baby changing products on the U.S. market include restraints. Through limited testing, staff found that some of these products do not meet the proposed requirement. To comply with the proposed requirement, firms have several low-cost options to reinforce restraints.

Finally, the Commission is proposing additional requirements for warnings on labels and in instructional literature. All firms would have to modify the wording and format of their warnings to meet these requirements; however, the costs of such changes are generally small, particularly compared to overall firm revenues.

1. Small Manufacturers With Compliant Baby Changing Products

Of the 49 small manufacturers, 22 produce baby changing products that comply with ASTM F2388–16, making the economic impact of adopting ASTM F2388–16 small. Additionally, the proposed requirements for threaded fasteners, restraints, and warnings likely would also create only small costs for these manufacturers. Compliant manufacturers are unlikely to use consumer-installed threaded fasteners in key structural components because other children's product standards prohibit them. About 10 of these firms produce at least one baby changing product with restraints, but if their products are not compliant, then the firm can remove the restraints or make other low-cost adjustments. Similarly, the cost to comply with the proposed requirements for warnings is also likely to be low because the additional requirements would merely modify the text and format of the ASTM F2388–16 warnings.

In contrast, the proposed additional requirement regarding user-installed secondary support straps may result in significant costs. Five of the compliant manufacturers may use consumer-installed secondary support straps. If these products do not pass the structural integrity test without these supports, the cost of modifying the products could range from minimal to great, depending on the product type and the changes employed. Therefore, staff cannot rule out a significant economic impact for the five manufacturers of compliant products that may employ user-installed secondary support straps.

2. Small Manufacturers With Non-Compliant Baby Changing Products

Twenty-seven of the 49 small manufacturers produce baby changing products that do not comply with ASTM F2388–16. These firms may incur costs to conform to ASTM F2388–16 and the additional proposed requirements. The Commission does not have sufficient information to determine the extent and cost of these changes. Therefore, the Commission cannot rule out a significant economic impact on these firms.

3. Third Party Testing Costs for Small Manufacturers

Under section 14 of the CPSA, if CPSC adopts the proposed requirements, all manufacturers would be subject to the third party testing and certification requirements under 16 CFR part 1107. Third party testing would include any physical and mechanical test requirements, and the cost of obtaining testing would be in addition to the costs of meeting the baby changing products standard.

Almost half of small baby changing product manufacturers (22 out of 49) already test their products for compliance with ASTM F2388, although not necessarily through a third party laboratory. For these manufacturers, the cost of the proposed rule, with respect to third party testing, would be limited to the difference between the cost of their current testing regimes and the cost of third party tests, which is likely to be low.

Of the remaining 27 firms that do not currently test their products for compliance with ASTM F2388–16, third party testing could result in a significant economic impact for five firms. Testing costs may exceed 1 percent of gross revenue for these firms if five or fewer samples are tested (assuming high-end, U.S.-based testing costs of $1,200 per model sample). CPSC could not obtain revenue information for all of the small, non-compliant manufacturers. Therefore, CPSC could not evaluate the economic impact for six firms.

4. Small Importers and Wholesalers With Compliant Baby Changing Products

CPSC considered the economic impact to importers and wholesalers together because both rely on outside firms to supply the products they distribute to the U.S. market. The four small importers that comply with ASTM F2388–16 would require modifications to meet the proposed additional requirements. However, as discussed, the costs of complying with the additional threaded fastener, restraints, and warning requirements are likely to be low.

The proposed requirement regarding user-installed secondary support straps, however, could be more costly and possibly require firms to retrofit or redesign their products. Two of the four importers may require modifications to pass structural integrity testing under this requirement. Both firms could eliminate changing products from their product lines without a significant adverse impact, but likely could not use an alternate supplier.

5. Small Importers and Wholesalers With Non-Compliant Baby Changing Products

There is insufficient information to rule out a significant impact for any of the five importers and one wholesaler of non-compliant baby changing products. Whether there would be a significant economic impact would depend on the extent of the changes required for these firms to come into compliance and the response of their suppliers, who may pass on the increased costs to the importers and wholesalers.

Four of the six importers and wholesalers with non-compliant products do not appear to have direct ties to their suppliers and may select alternative suppliers. Three of these firms supply numerous products. Thus, they could stop supplying baby changing products. However, one firm only supplies baby changing products, so there would be a significant economic impact if that firm left the market.

The remaining two firms are tied to their foreign suppliers, so they are not likely to choose alternative suppliers. However, these foreign suppliers may comply with the proposed requirements to continue to market their products in the United States. Alternatively, these firms may stop selling baby changing products altogether because they represent only a small portion of their product lines. Without sales revenues, CPSC could not determine whether exiting the baby changing products market would generate significant economic impacts.

6. Third Party Testing Costs for Small Importers and Wholesalers

Importers and wholesalers would be subject to costs similar to manufacturers' costs if their foreign suppliers do not obtain third party testing. Four importers already test their products to verify compliance with the ASTM standard. As such, their costs would be limited to the incremental costs of third party testing over their current testing regimes.

There may be significant costs for two or three firms that do not comply with the ASTM standard. For two firms, the cost of testing as few as two units per model could exceed 1 percent of their gross revenues. For a third firm, testing costs may exceed 1 percent of its gross revenue, depending on how many units per model the firm tests. CPSC was unable to obtain revenue data for one small, non-compliant wholesaler, so could not examine the size of the impact on that firm.

7. Summary of Impacts

The Commission identified 59 small firms that market baby changing products in the United States, of which 49 are domestic manufacturers and 10 are domestic importers or wholesalers. Of the 49 small manufacturers, 17 are unlikely to experience significant economic impacts if the Commission adopts the proposed rule. However, CPSC cannot rule out a significant economic impact for the remaining 32 manufacturers. For two of the small importers and wholesalers, it is likely that the proposed rule would not have a significant economic impact. However, it is possible that the proposed rule would have a significant economic impact on the remaining eight small importers and wholesalers. Therefore, to summarize, CPSC cannot rule out a significant economic impact for 40 of the 59 small firms (68 percent) operating in the U.S. baby changing products market.

8. Impacts of Test Laboratory Accreditation Requirements on Small Laboratories

In accordance with section 14 of the CPSA, all children's products that are subject to a children's product safety rule must be tested by a third party conformity assessment body that has been accredited by CPSC. These third party conformity assessment bodies test products for compliance with applicable children's product safety rules. Testing laboratories that want to conduct this testing must meet the NOR for third party conformity testing. CPSC has codified NORs in 16 CFR part 1112. CPSC proposes to amend 16 CFR part 1112 to establish an NOR for testing laboratories to test for compliance with the proposed baby changing products standard. This section assesses the impact of this proposed amendment on small laboratories.

CPSC conducted a Final Regulatory Flexibility Analysis (FRFA) when it adopted part 1112. 78 FR 15836 (Mar. 12, 2013). The FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements were imposed on laboratories that did not intend to provide third party testing services. The only laboratories that were expected to provide such services were laboratories that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision.

For the same reasons, including the NOR for baby changing products in part 1112 would not have a significant adverse impact on small laboratories. Moreover, CPSC expects that only a small number of laboratories would request accreditation to test baby changing products, based on the number of laboratories that have applied for CPSC accreditation to test other juvenile products. Most laboratories would already have accreditation to test for conformance to other juvenile product standards; accordingly, the only cost would be to add the baby changing products standard to their accreditation. Test laboratories have indicated that this cost is extremely low when they are already accredited for other CPSIA section 104 rules. Therefore, the Commission certifies that the NOR for the baby changing products standard will not have a significant impact on a substantial number of small entities.

G. Alternatives

At least three alternatives are available to minimize the economic impact on small entities supplying baby changing products, while also complying with the direction of section 104 of the CPSIA.

First, the Commission could adopt ASTM F2388–16, with no modifications. Section 104 of the CPSIA directs the Commission to promulgate a standard that is either substantially the same as the voluntary standard or more stringent if the Commission determines that would further reduce the risk of injury associated with the product. Therefore, adopting ASTM F2388–16 with no modifications is the least stringent rule CPSC could adopt. This alternative would reduce the economic impact on all of the small businesses supplying baby changing products to the U.S. market. Although choosing this alternative would not reduce the testing costs associated with the rule, this alternative would eliminate the economic impact of the additional proposed requirements. This option would eliminate the cost of complying with the additional requirements for the 22 small domestic manufacturers and four small importers and wholesalers with baby changing products that conform to ASTM F2388–16. However, adopting ASTM F2388–16 with no modifications would not further reduce the risks associated with falls and suffocations.

Second, the Commission could adopt ASTM F2388–16 with the proposed modifications, except for the requirement regarding secondary support straps. This additional requirement is likely to have the largest economic impact, and removing it would reduce the impact on 11 small suppliers (9 small manufactures and 2 small importers). However, without this requirement, the standard may not reduce the risk of injuries associated with falls as effectively.

Third, the Commission could set a later effective date for the final rule. A later effective date would reduce the economic impact on firms in two ways. First, firms would be less likely to experience a lapse in production or imports if they are unable to modify their products and secure third party testing within the required timeframe. Second, firms could spread costs over a longer period, thereby reducing annual costs and the present value of total costs. CPSC requests comments on the 6-month effective date.

H. Requested Information

The Commission would find comments on the following issues particularly helpful:

- The changes, costs, and time needed to conform to ASTM F2388–16;
- how affected firms would modify their products, the associated costs, and the time needed to meet each of the proposed requirements regarding:
  - ○ Threaded fasteners;
  - ○ consumer-installed secondary support straps;
  - ○ restraint system integrity; and
  - ○ labels and instructional literature;
- whether a particular effective date, or time of year would reduce the costs associated with the proposed requirements;
- whether the costs of complying with the proposed ban of consumer-installed threaded fasteners on key structural elements would be "economically significant" (*i.e.*, amount to an impact greater than 1 percent of revenue or similar economic benchmarks);
- the types of baby changing products that include user-installed secondary support straps and their prevalence in the U.S. market;
- the extent to which firms would remove restraints entirely, rather than conform to the proposed requirement, and the associated costs;
- testing costs and incremental costs of third party testing (*i.e.*, how much moving from a voluntary to a mandatory third party testing regime would add to testing costs in total and on a per-test basis); and
- the number of products that must be tested to provide a "high degree of assurance" with respect to third party testing.

XII. Environmental Considerations

The Commission's regulations outline the types of agency actions that require an environmental assessment (EA) or environmental impact statement (EIS). Rules that have "little or no potential for affecting the human environment" fall within a "categorical exclusion" under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231–4370h) and the regulations implementing NEPA (40 CFR parts 1500–1508) and do not normally require an EA or EIS. As stated in 16 CFR 1021.5(c)(1), rules or safety standards that provide design or performance requirements for products fall within that categorical exclusion. Because this proposed rule would create design and performance requirements for baby changing products, the proposed rule falls within the categorical exclusion. Thus, no EA or EIS is required.

XIII. Paperwork Reduction Act

This proposed rule contains information collection requirements that are subject to public comment and review by the Office of Management and

Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501–3521). Under 44 U.S.C. 3507(a)(1)(D), an agency must publish the following information:

- A title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to OMB.

In accordance with this requirement, the Commission provides the following information:

Title: Safety Standard for Baby Changing Products.

Description: The proposed rule would require each baby changing product to comply with ASTM F2388–16, with additional requirements regarding structural integrity, restraint system integrity, and warnings in labels and instructional literature. Sections 9 and 10 of ASTM F2388–16 contain requirements for labels and instructional literature. These requirements fall within the definition of a "collection of information" provided in the PRA at 44 U.S.C. 3502(3).

Description of Respondents: Persons who manufacture or import baby changing products.

Estimated Burden: CPSC estimates the burden of this collection of information as follows:

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1235.3	85	6	510	1	510

CPSC's estimate is based on the following:

Section 9.1.1 of ASTM F2388–16 requires that the name and place of business (mailing address) or the telephone number of the manufacturer, distributor, or seller appear on each baby changing product and its retail package. The additional requirements proposed in this NPR would require both the specified address information and the telephone number, instead of a choice between the two. Section 9.1.2 of ASTM F2388–16 requires a code mark or other product identification on each product and retail package that indicates the date (month and year) of manufacture.

Eighty-five known entities supply baby changing products to the U.S. market and may need to modify their existing labels to comply with ASTM F2388–16. CPSC estimates that the time required to make these modifications is about 1 hour per model. Based on an evaluation of supplier product lines, each entity supplies an average of six models of baby changing products. Therefore, the estimated burden associated with labels is 1 hour per model × 85 entities × 6 models per entity = 510 hours. CPSC estimates the hourly compensation for the time required to create and update labels is $33.02 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," Mar. 2016, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated annual cost associated with the proposed labeling requirements is $16,840 ($33.02 per hour × 510 hours = $16,840). No operating, maintenance, or capital costs are associated with the collection.

Section 10.1 of ASTM F2388–16 requires instructions to be supplied with baby changing products. Baby changing products generally require use and assembly instructions. As such, products sold without use and assembly instructions would not compete successfully with those that supply this information. Under OMB's regulations, the time, effort, and financial resources necessary to comply with a collection of information incurred by parties in the "normal course of their activities" are excluded from a burden estimate when an agency demonstrates that the disclosure activities required are "usual and customary." 5 CFR 1320.3(b)(2). CPSC is unaware of baby changing products that generally require use or assembly instructions but lack such instructions. Therefore, CPSC estimates that no burden hours are associated with section 10.1 of ASTM F2388–16 because any burden associated with supplying instructions with baby changing products would be "usual and customary," and thus, excluded from "burden" estimates under OMB's regulations.

Based on this analysis, the proposed standard for baby changing products would impose a burden to industry of 510 hours at a cost of $16,840 annually.

CPSC has submitted the information collection requirements of this rule to OMB for review in accordance with PRA requirements. 44 U.S.C. 3507(d). CPSC requests that interested parties submit comments regarding information collection to the Office of Information and Regulatory Affairs, OMB (see the **ADDRESSES** section at the beginning of this NPR).

Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility;
- the accuracy of CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information the Commission proposes to collect;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- the estimated burden hours associated with modifying labels and instructional literature, including any alternative estimates.

XIV. Preemption

Under section 26(a) of the CPSA, no state or political subdivision of a state may establish or continue in effect a requirement dealing with the same risk of injury as a federal consumer product safety standard under the CPSA unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). States or political subdivisions of states may, however, apply to the Commission for an exemption, allowing them to establish or continue such a requirement if the state requirement provides a significantly high degree of protection from the risk of injury and does not unduly burden interstate commerce. *Id,* at 2075(c).

One of the functions of the CPSIA was to amend the CPSA, adding several provisions to CPSA, including CPSIA section 104 in 15 U.S.C. 2056a. As such, consumer product safety standards that the Commission creates under CPSIA section 104 are covered by the preemption provision in the CPSA. Consequently, the rule proposed in this NPR would be a federal consumer product safety standard, and the preemption provision in section 26 of the CPSA would apply.

XV. Request for Comments

This NPR begins a rulemaking proceeding under section 104(b) of the CPSIA to issue a consumer product safety standard for baby changing products and to amend part 1112 to add baby changing products to the list of children's product safety rules for which CPSC has issued an NOR. We invite all interested persons to submit comments on any aspect of the proposed mandatory safety standard for baby changing products and on the proposed amendment to part 1112. Specifically, the Commission requests comments on the following:

- The requirements in ASTM F2388–16, including their effectiveness in addressing the risks of injury associated with baby changing products and the costs of complying with these requirements;
- the additional requirements proposed for structural integrity, specifically regarding threaded fasteners and secondary support straps, including their effectiveness in addressing the risk of injury associated with collapses and falls and the costs of complying with these requirements;
- the additional requirement proposed for restraint systems, including its effectiveness in addressing the risk of injury associated with restraints and falls and the costs of complying with this requirement;
- the additional requirements proposed for labels and instructional literature, including their effectiveness at addressing the hazards associated with falls and suffocation and the costs of complying with these requirements;
- the costs to small businesses associated with the requirements proposed in this NPR, including the costs to comply with the proposed additional requirements for structural integrity, restraint system integrity, and warnings on labels and in instructional literature;
- alternatives to the proposed requirements that would reduce impacts on small businesses;
- the proposed effective date and whether an extended effective date would further mitigate the impact on small businesses and to what extent; and
- any additional information relevant to the issues discussed in this NPR and the proposed requirements.

During the comment period, ASTM F2388–16 and ANSI Z535.4 are available for review. Please see Section IX. Incorporation by Reference for instructions on viewing them.

Please submit comments in accordance with the instructions in the **ADDRESSES** section at the beginning of this NPR.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1235

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063; Public Law 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by adding paragraph (b)(45) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * * *

(b) * * *

(45) 16 CFR part 1235, Safety Standard for Baby Changing Products.

* * * * *

■ 3. Add part 1235 to read as follows:

PART 1235—SAFETY STANDARD FOR BABY CHANGING PRODUCTS

Sec.
1235.1 Incorporation by reference.
1235.2 Scope.
1235.3 Requirements for baby changing products.

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016.

§ 1235.1 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the U.S. Consumer Product Safety Commission, Office of the Secretary, 4330 East West Highway, Room 820, Bethesda, MD 20814, telephone 301–504–7923, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.*

(a) American National Standards Institute, Inc., 1899 L Street, NW., 11th Floor, Washington, DC 20036; telephone 202–293–8020; *https://www.ansi.org.*

(1) ANSI Z535.4–2011, Product Safety Signs and Labels, 2011 (ANSI Z535.4–2011), IBR approved for § 1235.3.

(2) [Reserved]

(b) ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; telephone 877–909–2786; *http://www.astm.org/cpsc.htm.*

(1) ASTM F2388–16, Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use, 2016 (ASTM F2388–16), IBR approved for § 1235.3.

(2) [Reserved]

§ 1235.2 Scope.

This part establishes a consumer product safety standard for baby changing products, including changing tables and other changing products, such as contoured changing pads and add-on changing units sold separately for use on furniture products other than changing tables.

§ 1235.3 Requirements for baby changing products.

(a) Except as provided in paragraphs (b) through (m) of this section, each baby changing product must comply with all applicable provisions of ASTM F2388–16 (incorporated by reference, see § 1235.1)

(b) Comply with ASTM F2388–16 with the additions or exclusions listed in paragraphs (c) through (m) of this section:

(c) In addition to the definitions in section 3.1 of ASTM F2388–16, the following definitions apply to this section:

(1) 3.1.14 *key structural elements, n*—side assemblies, end assemblies, base assemblies, leg assemblies, primary

changing surface supports, or other components designed to support the weight of the occupant, or a combination thereof.

(2) 3.1.15 *non-rigid add-on changing unit accessory, n*—a supported changing unit that attaches to a crib or play yard designed to convert the product into a changing table typically having a rigid frame with soft fabric or mesh sides and/or bottom surface.

(d) In addition to complying with sections 5.1 through 5.7 of ASTM F2388–16, comply with the following:

(1) 5.8 *Threaded Fasteners (Wood Screws and Sheet Metal Screws)*—

(i) 5.8.1 No changing table shall require consumer assembly of key structural elements using wood screws or sheet metal fasteners directly into wood components. This shall not apply to non-key structural elements such as drawers, secondary support straps, other storage components, or accessory items.

(ii) 5.8.2 Metal inserts, with external wood screw threads for screwing into a wood component and providing internal machine threads to accommodate a machine screw, that are used to secure key structural elements shall be glued or include other means to impede loosening or detaching.

(iii) 5.8.3 Metal threaded fasteners, such as sheet metal screws and machine screws, secured into metal components and used to attach key structural elements shall have lock washers, self-locking nuts, or other means to impede loosening or detachment during the testing required by this specification, as described in section 6.2 of ASTM F2388–16.

(2) [Reserved]

(e) Instead of complying with section 6.2 of ASTM F2388–16, comply with the following:

(1) 6.2 *Structural Integrity*—When tested in accordance with 7.2, there shall be no breakage of the unit, nor shall it fail to conform to any other requirements in this specification before and after all testing. Components attached by screws shall not have separated by more than 0.04 in. (1 mm) upon completion of testing.

Note 1: Contoured changing pads and add-on changing units that are sold separately are exempt from this requirement.

(2) [Reserved]

(f) In addition to complying with section 6.8 of ASTM F2388–16, comply with the following:

(1) 6.9 *Restraint System*—

Note 2: A restraint system may be provided to restrict upward or lateral movement of the occupant's torso. Inclusion of a restraint system is not mandatory.

(i) 6.9.1 If a restraint system is installed on the product or available as an option, it shall meet the following:

(A) 6.9.1.1 A restraint system and its closing means (for example, buckle) shall not break or separate when tested in accordance with 7.8.

(B) 6.9.1.2 The anchorages shall not separate from the unit when tested in accordance with 7.8.

(C) 6.9.1.3 Restraints shall be capable of adjustment with a positive, self-locking mechanism that is capable, when locked, of withstanding the forces of tests in 7.8 without allowing restraint movement or slippage of more than 1 in. (25.4 mm).

(ii) [Reserved]

(2) [Reserved]

(g) Instead of complying with section 7.2 of ASTM F2388–16, comply with the following:

(1) 7.2 *Structural Integrity*—Assemble the unit in accordance with the manufacturer's assembly instructions. If the product design employs secondary support bars or straps beneath the changing surface that are not factory preassembled in their intended use position, this test is to be conducted without the support bars/straps installed. Place the unit on the test floor, center a 6 by 6 in. (150 by 150 mm) wood block on the changing surface and gradually apply a 100 lb (45.4 kg) weight onto the wood block within a period of 5 s. Maintain the weight for an additional period of 60 s.

(2) [Reserved]

(h) Instead of complying with section 7.4 of ASTM F2388–16, comply with the following:

(1) 7.4 *Barrier Structural Integrity and Retention Tests:*

(i) 7.4.1 *Test Equipment and Test Set Up*

(A) 7.4.1.3 *Test Set Up*—Assemble the unit in accordance with the manufacturer's assembly instructions. If the product design employs secondary support bars or straps beneath the changing surface that are not factory preassembled in their intended use position, this test is to be conducted without the support bars/straps installed.

(B) [Reserved]

(ii) [Reserved]

(2) [Reserved]

(i) In addition to complying with section 7.7 of ASTM F2388–16, comply with the following:

(1) 7.8 *Restraint System*—

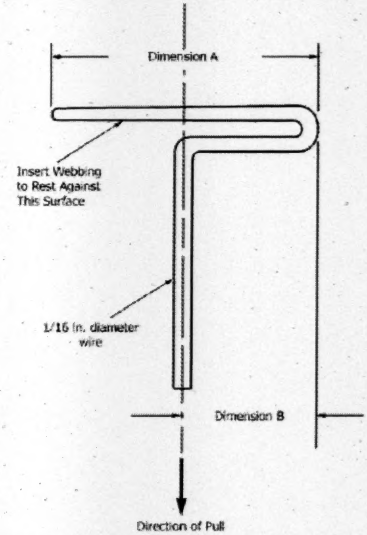
(i) 7.8.1 Secure the unit in its recommended use position so that it cannot move in the direction of the force being applied.

(ii) 7.8.2 Secure a CAMI Infant Dummy, Mark II on the changing surface in accordance with the manufacturer's instructions.

(iii) 7.8.3 Adjust the restraint, using the webbing tension pull device shown in Figure 1, below, so that a force of 2 lbf (9 N) applied to the restraint will provide a ¼ in. (6 mm) space between the restraint and the CAMI Dummy.

(iv) 7.8.4 Using the webbing tension pull device shown in Figure 1, below, perform the following tests without readjusting the restraint system.

(A) 7.8.4.1 Within 5 s, gradually apply a pull force of 30 lbf (200 N) on the restraint strap and maintain for an additional 10 s. Release the restraint strap. Repeat this test for a total of four pulls in the following directions: Horizontally away from the table in the direction an occupant could roll, in a direction that is 45 degrees from the horizontal changing surface towards the head of the changing pad, in a direction that is 45 degrees from the horizontal changing surface towards the foot of the changing pad, and vertically straight up away from the changing pad.



NOTE 1—Dimension A—Width of webbing plus ¼ in.
NOTE 2—Dimension B—One half of Dimension A.

FIGURE 1.—*Webbing Tension Pull Device*

(B) [Reserved]

(2) [Reserved]

(j) Instead of complying with sections 9.1.1 and 9.1.2 of ASTM F2388–16, comply with the following:

(1) 9.1.1 The name, place of business (mailing address, including city, state, and zip code), and telephone number of the manufacturer, distributor, or seller.

(2) 9.1.2 A code mark or other means that identifies the date (month and year as a minimum) of manufacture.

Note 3: Add-on changing units, non-rigid add-on changing unit accessories, or contoured changing pads sold with non-full size cribs and play yards are exempt from the labeling requirements of 9.1.1 and 9.1.2, as labeling requirements for these accessories are included in Consumer Safety Specification F406.

(k) Instead of complying with section 9.3 of ASTM F2388–16, comply with the following:

(1) 9.3 The marking and labeling on the product shall be permanent.

(2) [Reserved]

(l) In addition to complying with section 9.3, as revised in paragraph (k) of this section, comply with the following:

(1) 9.4 *Warning Design for Product*

(i) 9.4.1 The warning shall be easy to read and understand and be in the English language at a minimum.

(ii) 9.4.2 Any marking or labeling provided in addition to those required by this section shall not contradict or confuse the meaning of the required information, or be otherwise misleading to the consumer.

(iii) 9.4.3 The warnings shall be conspicuous and permanent.

(iv) 9.4.4 The warnings shall conform to sections 6.1–6.4, 7.2–7.6.3, and 8.1 of ANSI Z535.4–2011 (incorporated by reference, see § 1235.1), with the changes indicated in paragraph (l)(1)(iv)(A), (B), and (C) of this section

(A) 9.4.4.1 In sections 6.2.2, 7.3, 7.5, and 8.1.2, replace "should" with "shall."

(B) 9.4.4.2 In section 7.6.3, replace "should (when feasible)" with "shall."

(C) 9.4.4.3 Strike the word "safety" when used immediately before a color (*e.g.*, replace "safety white" with "white").

(v) 9.4.5 The safety alert symbol and the signal word "WARNING" shall not be less than 0.2 in. (5 mm) high. The remainder of the text shall be in characters whose upper case shall be at least 0.1 in. (2.5 mm), except where otherwise specified.

Note 4: For improved warning readability, the warning designer should avoid the use of typefaces with large height-to-width ratios, which are commonly identified as "condensed," "compressed," "narrow," or similar.

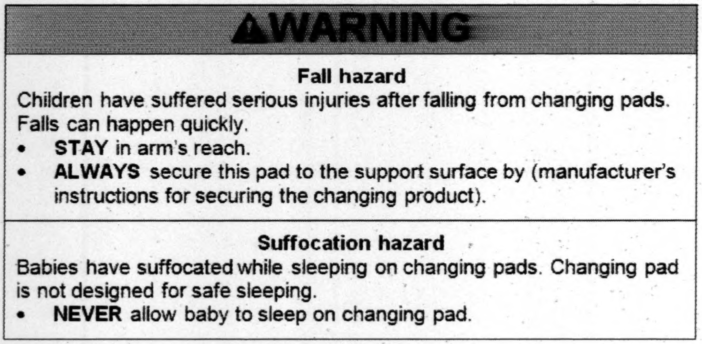
(vi) 9.4.6 *Message Panel Text Layout*

(A) 9.4.6.1 The text shall be left aligned, ragged right for all but one-line text messages, which can be left aligned or centered.

Note 5: Left aligned means that the text is aligned along the left margin, and, in the case of multiple columns of text, along the left side of each individual column.

(B) 9.4.6.2 The text in each column should be arranged in list or outline format, with precautionary (hazard avoidance) statements preceded by bullet points. Multiple precautionary statements shall be separated by bullet points if paragraph formatting is used.

(vii) 9.4.7 An example warning in the format described in this section is shown in Figure 2, below.



⚠WARNING

Fall hazard

Children have suffered serious injuries after falling from changing pads. Falls can happen quickly.

- **STAY** in arm's reach.
- **ALWAYS** secure this pad to the support surface by (manufacturer's instructions for securing the changing product).

Suffocation hazard

Babies have suffocated while sleeping on changing pads. Changing pad is not designed for safe sleeping.

- **NEVER** allow baby to sleep on changing pad.

FIGURE 2.—*Example Warning*

(2) 9.5 *Warning Statements*—Each product shall have warnings statements to address the following, at a minimum:

(i) 9.5.1 The following warning statements shall be placed on all changing tables, including add-on changing units and contoured changing pads that are sold separately:

Fall Hazard. Children have suffered serious injuries after falling from changing [tables/pads/areas]. Falls can happen quickly.

- STAY in arm's reach.

Note 6: The words in brackets provide wording options. The manufacturer should select the most appropriate term for the product and may substitute another term that is consistent with the product's marketing and instructions.

(ii) 9.5.2 Removable pads that are included with changing tables, contoured pads, non-rigid add-on changing unit accessories, and add-on changing units sold separately that are intended to be physically attached to the support surface shall have a warning on the pad or changing unit, and its retail packaging, to address the following:

- ALWAYS secure this [unit/pad] to the support [surface/frame] by (manufacturer's instructions for securing the changing unit). See instructions.

Note 7: The words in the brackets provide wording options. The manufacturer should select the most appropriate term for the product and may substitute another term that is consistent with the product's marketing and instructions.

(iii) 9.5.3 Non-rigid add-on changing unit accessories, changing pads, and contoured changing pads, whether sold with the changing table or sold separately, shall include the following additional warning statements:

Suffocation Hazard. Babies have suffocated while sleeping [in/on] changing [tables/pads/areas]. Changing [table/pad/area] is not designed for safe sleeping.

- NEVER allow baby to sleep [in/on] changing [table/pad/area].

Note 8: The words in brackets provide wording options. The manufacturer should select the most appropriate term for the product and may substitute another term that is consistent with the product's marketing and instructions.

(iv) 9.5.4 Contoured changing pads, non-rigid add-on changing unit accessories, and add-on changing units sold separately shall include additional warnings addressing either: (a) The specific products to attach the contoured changing pad or add-on unit to; or (b) That the surface used should be level, stable, and structurally sound with minimum surface dimensions of "X" by "Y."

(m) Instead of complying with section 10.1.1 of ASTM F2388–16, comply with the following:

(1) 10.1.1 The instructions shall contain the warnings as specified in 9.5 and address the statements in 10.1.1.1 through 10.1.1.8. These required warning statements shall meet the requirements described in 9.4, except for the color requirements provided in ANSI Z535.4–2011, (*e.g.,* the background of the signal word panel need not be a specific color).

Note 9: For additional guidance on the design of warnings for instructional literature, please refer to the most-recent edition of ANSI Z535.6, Product Safety Information in Product Manuals, Instructions, and Other Collateral Materials, American National Standards Institute, Inc., available at *http://www.ansi.org/.*

(2) [Reserved]

Dated: September 14, 2016

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–22557 Filed 9–28–16; 8:45 am]

BILLING CODE 6355–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 230, 239, 240, 249, and 274

[Release No. 33–10220; 34–78926; IC–32281; File No. S7–15–16]

RIN 3235–AL82

Extension of Comment Period for Disclosure Update and Simplification

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Securities and Exchange Commission is extending the comment period for a proposal to amend certain of its disclosure requirements that may have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), International Financial Reporting Standards ("IFRS"), or changes in the information environment [Release No. 33–10110; 34–78310; IC–32175; 81 FR 51607 (July 13, 2016)]. The release also solicits comment on certain Commission disclosure requirements that overlap with, but require information incremental to, U.S. GAAP to determine whether to retain, modify, eliminate, or refer them to the Financial Accounting Standards Board for potential incorporation into U.S. GAAP. The original comment period is scheduled to end on October 3, 2016. The Commission is extending the time period in which to provide the Commission with comments until November 2, 2016. This action will allow interested persons additional time to analyze the issues and prepare their comments.

DATES: Comments should be received on or before November 2, 2016.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment forms (*http://www.sec.gov/rules/proposed.shtml);*
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–15–16 on the subject line; or
- Use the Federal Rulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–15–16. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed.shtml*). Comments also are available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the SEC's Web site. To ensure direct electronic receipt of such notifications, sign up through the "Stay Connected" option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Nili Shah, Deputy Chief Accountant, at (202) 551–3255, Division of Corporation Finance; Duc Dang, Senior Special Counsel, at (202) 551–3386, Office of the Chief Accountant; Matt Giordano, Chief Accountant, at (202) 551–6918, Division of Investment Management; Valentina Minak Deng, Special Counsel, at (202) 551–5778 and Tim White, Special Counsel, at (202) 551–5777, Division of Trading and Markets; Harriet Orol, Branch Chief, at (212) 336–0554, Office of Credit Ratings; Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission has requested comment on a release proposing amendments to certain of its disclosure requirements that may have become redundant, duplicative, overlapping, outdated, or superseded, in light of other Commission disclosure requirements, U.S. GAAP, IFRS, or changes in the information environment. The release also solicited comment on certain disclosure requirements that overlap with, but require information incremental to, U.S. GAAP to determine whether to retain, modify, eliminate, or refer them to the Financial Accounting Standards Board ("FASB") for potential incorporation into U.S. GAAP.[1] The proposed amendments are intended to facilitate the disclosure of information to investors, while simplifying compliance efforts, without significantly altering the total mix of information provided to investors.

The Commission originally requested that comments on the release be received by October 3, 2016. The Commission has received several requests for an extension of time for public comment on the proposal to, among other things, allow for adequate time to fully consider the proposals and to improve the quality of responses.[2] The Commission believes that providing the public additional time to consider thoroughly the matters addressed by the release and to submit comprehensive responses to the release would benefit the Commission in its consideration of final rules. Therefore, the Commission is extending the comment period for Release No. 33–10110; 34–78310; IC–32175 "Disclosure Update and Simplification" until November 2, 2016.

By the Commission.

Dated: September 23, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–23489 Filed 9–28–16; 8:45 am]

BILLING CODE 8011–01–P

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[1] Specifically, the Commission proposed amendments to, or solicited comment on potential FASB referrals of, Rules 1–02, 2–01, 2–02, 3–01, 3–02, 3–03, 3–04, 3–05, 3–12, 3–14, 3–15, 3–17, 3–20, 3A–01, 3A–02, 3A–03, 3A–04, 4–01, 4–07, 4–08, 4–10, 5–02, 5–03, 5–04, 6–03, 6–04, 6–07, 6–09, 6A–04, 6A–05, 7–02, 7–03, 7–04, 7–05, 8–01, 8–02, 8–03, 8–04, 8–05, 8–06, 9–03, 9–04, 9–05, 9–06, 10–01, 11–02, 11–03, 12–16, 12–17, 12–18, 12–28, and 12–29 of Regulation S–X under the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"), Items 10, 101, 103, 201, 302, 303, 503, 512, and 601 of Regulation S–K under the Securities Act and the Exchange Act, Item 1010 of Regulation M–A under the Securities Act and the Exchange Act, and Item 1118 of Regulation AB under the Securities Act and the Exchange Act, Rule 158 of the Securities Act, Rules 405 and 436 of Regulation C under the Securities Act, Forms S–1, S–3, S–11, S–4, F–1, F–3, F–4, F–6, F–7, F–8, F–10, F–80, SF–1, SF–3, 1–A, 1–K, and 1–SA under the Securities Act, Rules 3a51–1, 10A–1, 12b-2, 13a-10, 13b2–2, 14a-101, 15c3–1g, 15d-2, 15d-10, 17a-5, 17a-12, 17g-3, and 17h-1T of the Exchange Act, Forms 20–F, 40–F, 10–K, 11–K, 10–D, and X–17A–5 under the Exchange Act, Forms N–5, N–1A, N–2, N–3, N–4, and N–6 under the Securities Act and the Investment Company Act of 1940 (the "Investment Company Act"), and Form N–8B–2 under the Investment Company Act.

[2] *See* Letters from Center for Audit Quality (Aug. 4, 2016), American Gas Association Accounting Advisory Council (Aug. 24, 2016), Edison Electric Institute (Aug. 24, 2016) and the National Association of Real Estate Investment Trusts (Sept. 9, 2016). Comments are available on the Commission's Web site at *https://www.sec.gov/comments/s7-15-16/s71516.htm.*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0493: FRL–9953–03–Region 10]

Approval and Promulgation of Implementation Plans; Washington: General Regulations for Air Pollution Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In reviewing past State Implementation Plan (SIP) actions, the Washington Department of Ecology (Ecology) and the Environmental Protection Agency (EPA) discovered minor typographical errors related to the EPA's previous approvals of Chapter 173–400 Washington Administrative Code, *General Regulations for Air Pollution Sources.* The EPA is proposing to correct these errors. The proposed corrections make no substantive changes to the SIP and impose no new requirements. In the Final Rules section of this **Federal Register**, the EPA is approving these corrections as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before October 31, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2016–0493 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave, Suite 900, Seattle, WA 98101; telephone number: (206) 553–0256; email address: *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register**. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: September 14, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2016–23297 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2016–0405; FRL–9953–19–OW]

RIN 2040–AF62

Federal Baseline Water Quality Standards for Indian Reservations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Environmental Protection Agency (EPA) is considering establishing federal baseline water quality standards (WQS) for certain Indian reservation waters to narrow a long-standing gap in coverage of Clean Water Act (CWA) protections. Currently, fewer than 50 of over 300 tribes with reservations have WQS effective under the CWA; most of the reservations with existing CWA-effective WQS have obtained the coverage through treatment in a manner similar to a state (TAS) under CWA section 518. In advance of any potential rulemaking to address this gap of CWA coverage, EPA specifically invites comments on whether to establish such federal baseline WQS for Indian reservation waters that do not yet have WQS under the CWA and, if so, what those WQS should be and how they should be implemented. Federal baseline WQS would define water quality goals for unprotected reservation waters and serve as the foundation for CWA actions to protect human health and the environment. Such WQS, if established, would apply only to those waters not already covered by existing CWA-effective WQS and would be superseded by any WQS subsequently adopted by an authorized tribe and approved by EPA under CWA section 303(c).

DATES: Comments must be received on or before December 28, 2016. EPA intends to hold two public webinars to discuss the ANPRM during the public comment period. If you are interested, see EPA's Web site at *https://www.epa.gov/wqs-tech/advance-notice-proposed-rulemaking-federal-baseline-water-quality-standards-indian* for the dates and times of the webinars and instructions on how to register and participate.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2016–0405, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mary Lou Soscia, Region 10, Environmental Protection Agency, 805 SW. Broadway, Suite 500, Portland, OR 97205; telephone number: (503) 326–5873; email address: *soscia.marylou@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. Who may be interested in this ANPRM?
II. Background
  A. What is the role of WQS under the CWA?
  B. What is the "gap" in WQS protection for waters on Indian reservations?
  C. How has EPA tried to address the gap of CWA coverage previously?
  D. Why is EPA publishing this ANPRM?
III. What would be included in the federal baseline WQS effort?
  A. To what waters would the potential federal baseline WQS apply?
  B. Which waters should be excluded from the potential federal baseline WQS?
  C. What designated uses should be considered in proposing potential federal baseline WQS?
  D. What water quality criteria should be considered in proposing potential federal baseline WQS?
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  E. What approaches should the potential federal baseline WQS take with regard to antidegradation requirements?
  1. Antidegradation Policy
  2. Antidegradation Implementation Methods
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3. WQS variance authorizing provision
H. Can tribes adopt WQS of their own?
IV. Statutory and Executive Order Review

I. Who may be interested in this ANPRM?

Tribes, states, local governments, and citizens concerned with water quality, and how water quality may be defined and protected on Indian reservations, may be interested in this ANPRM. Entities discharging pollutants to waters of the United States may be indirectly affected by a rulemaking resulting from this ANPRM since WQS are used to develop National Pollutant Discharge Elimination System (NPDES) permit limits and serve as a basis for Clean Water Act (CWA) section 404 permit decisions. WQS are also the basis for assessing water quality, identifying impaired waters and developing total maximum daily loads (TMDLs) under CWA sections 305(b) and 303(d). Potentially affected entities include:

Category	Examples of potentially affected entities
States, Tribes, and Territories	Tribes currently without CWA-effective WQS and tribes and states near or bordering Indian reservations that do not have WQS effective under the CWA.
Federal Agencies	Federal agencies with projects or other activities near surface waters on Indian reservations.
Industry	Industries discharging pollutants to surface waters on Indian reservations, or that may affect surface waters on Indian reservations.
Municipalities	Publicly-owned treatment works and stormwater outfalls discharging pollutants to surface waters on Indian reservations, or that may affect surface waters on Indian reservations.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by a potential federal baseline WQS rule resulting from this ANPRM. This table lists the types of entities that EPA is now aware could potentially be affected by such action. Other types of entities not listed in the table could also be affected. If you have questions regarding the effect of this action on a particular entity, please consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. What is the role of WQS under the CWA?

The CWA—initially enacted as the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500) and subsequent amendments—establishes the basic structure in place today for regulating pollutant discharges into the waters of the United States. In the CWA, Congress established the national objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," and to achieve "wherever attainable, an interim goal of water quality that provides for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water" (sections 101(a) and 101(a)(2)).

The CWA establishes the basis for the current WQS regulation and program. Section 301 of the CWA provides that: "the discharge of any pollutant by any person shall be unlawful" except in compliance with specific requirements of Title III and IV of the CWA, including industrial and municipal effluent limitations specified under CWA section 304 and "any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance established pursuant to any [s]tate law or regulation." Section 303(c) of the CWA addresses the development of state[1] and authorized tribal WQS and provides for the following:

(1) WQS shall consist of designated uses and water quality criteria based upon such uses;

(2) States and authorized tribes shall establish WQS considering the following possible uses for their waters—protection and propagation of fish, shellfish and wildlife, recreational purposes, public water supply, agricultural and industrial water supplies, navigation, and other uses;

(3) State and authorized tribal WQS must protect public health or welfare, enhance the quality of water, and serve the purposes of the CWA;

(4) States and authorized tribes must review their WQS at least once every three years; and

(5) EPA must review any new or revised state and authorized tribal WQS, and is also required to promulgate federal WQS where EPA finds that new or revised state or authorized tribal WQS are not consistent with applicable requirements of the CWA or in situations where the Administrator determines that federal WQS are necessary to meet the requirements of the CWA.

EPA established regulatory requirements in 1975,[2] 1983,[3] 1991,[4] 2000,[5] and 2015[6] to implement CWA section 303(c), now found in the WQS regulation at 40 CFR part 131. The WQS regulation includes general provisions, requirements for establishing WQS, procedures for review and revision of WQS, and the text of federal WQS that EPA has promulgated for specific waters of the United States.

CWA-effective WQS are the foundation of the water quality-based pollution control program mandated by the CWA and serve a dual purpose. First, WQS define the goals for a water body by designating its uses, setting criteria to protect those uses, and establishing antidegradation requirements. Second, WQS are a basis for water quality-based limits in NPDES permits (CWA sections 301(b)(1)(C) and 402), as the measure to assess whether waters are impaired (CWA section

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[1] "State" in the CWA and this document refers to the 50 states, the District of Columbia, and the five United States territories: The Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. "Authorized tribe" refers to those federally recognized Indian tribes with authority to administer CWA WQS program in a manner similar to a state under CWA Section 518.

[2] In 1975, EPA established the initial WQS regulation at 40 CFR 130.17. See 40 FR 55334, Nov. 20, 1975.

[3] In 1983, EPA established the core of the current WQS regulation by strengthening the previous provisions and moving them to a new 40 CFR part 131. See 54 FR 51400, November 8, 1983.

[4] In 1991, EPA added 40 CFR 131.7 and 131.8 to extend the ability to participate in the WQS program to eligible Indian tribes, pursuant to CWA section 518 which was enacted in 1987. See 56 FR 64893, December 12, 1991. See also EPA's revised interpretation of CWA section 518 (81 FR 30183, May 16, 2016).

[5] In 2000, EPA promulgated 40 CFR 131.21(c), commonly known as the "Alaska Rule," to clarify that new and revised WQS adopted by states and authorized tribes and submitted to EPA after May 30, 2000, become applicable WQS for CWA purposes only when approved by EPA. See 65 FR 24641, April 27, 2000.

[6] In 2015, EPA updated six key areas of the WQS regulation to provide a better-defined pathway for states and authorized tribes to improve water quality, protect high quality waters, increase transparency and enhance opportunities for meaningful public engagement at the state, tribal and local levels. See 80 FR 51019, August 21. 2015.

303(d)(1)(A)), for assessing and reporting on water quality biannually under CWA section 305(b), and as the target for a TMDL or "pollution budget" to aid in the restoration of impaired waters (CWA section 303(d)(1)(C)). Under CWA section 401, WQS serve as a basis for granting, granting with conditions, or denying state, authorized tribal, or federal certifications for federal licenses or permits for activities that may result in a discharge to waters covered by such WQS.

B. What is the "gap" in WQS protection for waters on Indian reservations?

The federal government has recognized 567 tribes. Over 300 of these tribes have reservation lands such as formal reservations, Pueblos, and informal reservations (*i.e.*, lands held in trust by the United States for tribal governments that are not designated as formal reservations). Under principles of federal law, states generally lack authority to regulate on Indian reservations. *See, e.g., Alaska* v. *Native Village of Venetie Tribal Government*, 522 U.S. 520, 527 n.1 (1998). EPA has generally excluded such lands from state programs it has approved under the CWA (and other environmental laws administered by EPA).[7] Thus, state WQS under EPA-authorized state CWA programs generally do not apply on Indian reservations.

In the absence of applicable state or federal WQS, the principal mechanism for establishing WQS for Indian reservation waters has been through the authority provided by CWA section 518. That section provides that, where a tribe is interested in administering the CWA WQS program, the tribe must (a) become authorized and (b) adopt and submit WQS to EPA for approval. To become authorized, the tribe must seek eligibility for TAS—consistent with the requirements of CWA section 518(e) and 40 CFR 131.8. Section 518(e) of the CWA establishes eligibility criteria for TAS, including requirements that the tribe have a governing body carrying out substantial governmental duties and powers; that the functions to be exercised by the tribe pertain to the management and protection of water resources within the borders of an Indian reservation; and that the tribe be reasonably expected to be capable of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CWA and applicable regulations. In 1991, EPA issued a final rule to implement CWA section 518(e) for the WQS program. EPA's regulation at 40 CFR 131.8 uses the eligibility criteria contained in CWA section 518 and establishes procedures for EPA Regional Administrators to receive and take action on tribal applications, so they are treated in a similar manner as a state for CWA purposes. To adopt WQS and have them approved by EPA, an authorized tribe must meet the same requirements applicable to states in 40 CFR 131 subparts B and C.

Most of the Indian reservations that are currently covered by CWA-effective WQS involve authorized tribes that have developed and adopted WQS that were approved by EPA (and made effective for CWA purposes). Currently, 53 of the over 300 federally recognized tribes with reservation lands have been authorized to administer a WQS program. Of these authorized tribes, 42 have had their WQS approved by EPA.[8]

Another way to establish CWA-effective WQS for Indian reservation waters is for EPA to promulgate federal WQS on a tribe-by-tribe, reservation-by-reservation basis. EPA has promulgated such federal WQS for one tribe, the Confederated Tribes of the Colville Reservation in Washington. See 40 CFR 131.35 (54 FR 28622, July 6, 1989).[9] There are also uncommon circumstances where a separate federal law grants a particular state the authority to regulate the environment on an Indian reservation. Where EPA expressly approves such a state's authority and the state's WQS for waters of an Indian reservation, such WQS will apply under the CWA for those waters. To date, EPA has approved three states (Washington, South Carolina, and Maine) to administer WQS on reservations or parts of reservations of six Indian tribes.

For various reasons, many tribes with reservation lands have been unable to apply, or have chosen not to apply, for TAS to administer a WQS program under the CWA. Some tribes have lacked resources to develop WQS to implement a WQS program while other tribes are focusing on addressing other environmental priorities first. Some tribes may be concerned that they cannot meet eligibility requirements, or that applying for program authorization could raise jurisdictional or other legal issues. Some tribes may have adopted water quality standards under tribal law and believe that such water quality standards are adequate to protect their water resources without being approved under the CWA. However, a tribe must obtain TAS and EPA must approve their water quality standards for those standards to be effective for CWA purposes.

Thus, except for the 42 authorized tribes with EPA-approved WQS in effect, the one instance where EPA has promulgated federal WQS (for the Colville Reservation), and six tribes for which EPA has approved states (Washington, South Carolina, and Maine) to adopt WQS on reservations or parts of reservations, there is a gap in water quality protection under the CWA for waters on Indian reservations.

C. How has EPA tried to address the gap of CWA coverage previously?

Between 1998 and 2003, EPA consulted widely with tribes, states, and others on the possibility of EPA promulgating certain federal WQS referred to as "core WQS" for Indian country waters without CWA-effective WQS. On January 18, 2001, EPA Administrator Carol Browner signed a proposed rule to promulgate the core WQS under CWA section 303(c). On January 22, 2001, EPA withdrew that proposal to allow additional review. Eventually, EPA Administrator Christine Whitman requested that EPA staff conduct additional outreach and consultation with tribes and states and issue an ANPRM before proposing a core WQS rule. Between 2001 and 2003, EPA began working on the ANPRM to invite comments and views on a variety of broad, possible approaches for establishing federal core WQS for waters in Indian country. Ultimately, EPA did not issue the core WQS ANPRM, nor did it reissue the proposed rule.

D. Why is EPA publishing this ANPRM?

EPA is publishing this ANPRM to initiate an informed dialogue with tribes, states, the public, and other stakeholders regarding whether EPA should initiate a rulemaking to establish federal baseline WQS for Indian reservations currently lacking such WQS and, if so, what approach EPA should take regarding key policy issues raised by such a rulemaking.

Federal baseline WQS—which could include designated uses, narrative and numeric criteria, antidegradation requirements, and other WQS policies such as a mixing zone policy, a compliance schedule authorizing provision, and a WQS variance procedure—can provide an important tool for tribes and EPA to use in making defensible, site-specific decisions that protect reservation waters. The WQS being considered would provide adequate coverage in each category, as a starting point. To be most effective, CWA-effective WQS should be tailored to the individual circumstances of the authorized tribe and its waters, likely through the development of additional or refined criteria and uses. EPA's preference is for tribes to utilize the TAS and WQS submittal process to develop such tailored WQS. EPA remains committed to assisting tribes in reaching this goal.

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[7] As noted in this section, there are a few instances where EPA has approved state WQS for particular reservations based on regulatory authority granted to the state in a separate federal law.

[8] EPA maintains a current list of authorized tribes and tribal WQS approvals at: *https://www.epa.gov/wqs-tech/epa-approvals-tribal-water-quality-standards*.

[9] When establishing federal WQS for waters of the United States, EPA uses authority provided by the CWA to promulgate federal WQS where the EPA Administrator determines that new or revised WQS are necessary to meet the requirements of the CWA (see CWA section 303(c)(4)(B) and 40 CFR 131.22(b)).

The primary benefit of federal baseline WQS would be to ensure that Indian reservation waters that are without CWA-effective WQS have direct water quality-based protection under the CWA. Many of the CWA's mechanisms for protecting water quality, such as water quality-based effluent limits in NPDES discharge permits, rely on WQS as the foundation for water quality-based decisions. Without applicable WQS, these mechanisms may be limited.

This ANPRM seeks input on key issues related to whether and how to fill the gap of WQS coverage in Indian reservation waters. In preparation for this ANPRM effort and consistent with EPA's Policy on Consultation and Coordination with Indian tribes, from August through November 2015 and from June through August 2016, EPA consulted and coordinated with officials from more than 130 tribes from around the United States. During that time, EPA received considerable input from tribal officials, most of it positive and supportive of this effort. EPA plans to continue consultation and coordination with tribal officials to address some of the tribes' questions and concerns, most of which center on implementation of any federal baseline WQS.

As mentioned previously, WQS would inform permit decisions and other implementation actions. Recognizing tribes potentially affected by this effort may have limited resources and experience with WQS development, administration, and implementation, EPA would work with the affected tribal government(s) through opportunities for coordination and consultation, as appropriate, in interpreting and applying any final federal baseline WQS rule.

EPA invites comment from all Indian tribes, especially tribes with reservation land that do not have CWA-effective WQS and members of those tribes, on whether establishing federal baseline WQS is an appropriate step in advancing the federal trust responsibility to federally recognized tribes, and enhancing tribal government sovereignty through protection of reservation water quality. EPA is interested also in any input regarding whether there are any concerns that would warrant not including a particular tribe in any final federal baseline WQS rule. While EPA is considering proposing to apply these WQS to all Indian reservations without CWA-effective WQS, in order to meet the goals of the CWA and better protect Indian reservation waters, EPA invites comment on other options.

This ANPRM is part of a broader effort to narrow gaps in CWA-effective WQS coverage in Indian country. On May 16, 2016, EPA revised the interpretation of CWA section 518 to streamline the process for tribes to apply for TAS for CWA regulatory programs, including the WQS program.[10] At the same time as EPA considers—through this ANPRM—whether and how to establish federal WQS for waters on Indian reservations, EPA continues to encourage, work closely with, and provide support to eligible tribes that wish to seek TAS and develop their own WQS for approval under the CWA. EPA continues to recognize that the appropriate place for a tribe to fully realize its unique objectives for WQS continues to be through seeking TAS for the purpose of administering WQS under the CWA.[11] EPA remains committed to helping tribes navigate the TAS and WQS adoption processes. In practice, implementation of any final federal baseline WQS could also provide individual tribes valuable understanding and experience in how WQS function under the CWA to protect Indian reservation waters.

EPA expects that this reinterpretation of CWA section 518 will better position tribes to seek TAS, establish their own WQS, and facilitate tribal involvement in the protection of reservation water quality as intended by Congress. To help facilitate the TAS application and WQS adoption processes, EPA is developing new guidance, including creating draft TAS applications and WQS language for use by eligible tribes.[12]

EPA expects to continue to provide such support even if EPA were to promulgate any final federal baseline WQS rule. In addition, as described in sections III.A and III.B of this document, EPA would expect that any final federal baseline WQS that may be put in place would no longer apply to the waters on Indian reservations of a tribe once the tribe has been authorized to administer a CWA WQS program and the tribe's own WQS are in place and approved by EPA.

III. What would be included in the federal baseline WQS effort?

EPA seeks input on which components of WQS to include in any federal baseline WQS effort—if it determines that such an effort is necessary—to ensure that the water quality of waters on Indian reservations is protected under the CWA. The range of WQS components that could be included are outlined in 40 CFR part 131, and include: Designated uses, narrative and numeric criteria, antidegradation requirements, and other WQS policies such as a mixing zone policy, a compliance schedule authorizing provision, and a WQS variance procedure. While EPA shares the ultimate goal of having WQS tailored to the particular circumstances of each Indian reservation, given the challenges of such an approach in a national federal rule, tailoring opportunities may be limited. However, where flexibility under the CWA and the national WQS regulation exists, any final federal baseline WQS could allow for actions based on such WQS (*e.g.*, NPDES permitting, TMDLs) to reflect local considerations and consultation with the affected tribe(s).

EPA invites input on how EPA should approach establishing any federal baseline WQS. For instance, should EPA establish one set of WQS that apply universally to the reservation waters covered by any final federal baseline WQS rule? Alternatively, should EPA pursue establishing federal baseline WQS that offer limited tailoring opportunities by establishing cultural and traditional designated uses that account for unique practices observed by particular tribes (see section III.C of this document), criteria that account for higher fish consumption patterns of particular tribes by establishing human health criteria using a limited range of fish consumption rates (see section III.D of this document), and establish greater protection for high quality and Outstanding National Resource Waters of particular importance to the tribe through the antidegradation provisions (see section III.E of this document)? These components are further discussed below.

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[10] See 81 FR 30183 (May 16, 2016).

[11] Recognizing the importance of protecting waters on which tribes rely, EPA is also preparing a final rule to establish procedures for tribes to obtain TAS to administer the water quality restoration provisions of CWA section 303(d) to identify impaired waters on their reservations and to establish total maximum daily loads, which serve as plans for attaining and maintaining applicable WQS.

[12] "Eligible tribes" are those tribes that EPA has approved for TAS under the requirements of CWA section 518(e) and 40 CFR 131.8.

In addition, EPA seeks input on whether and how to make any potential federal baseline WQS consistent with the requirements of 40 CFR part 132. In 1995, EPA published a final rule at 40 CFR part 132, 60 FR 15366 (March 23, 1995) that implements the CWA section 118 requirement for EPA to publish water quality guidance on minimum WQS, including antidegradation policies, and implementation procedures for the Great Lakes System, and that states and authorized tribes adopt WQS, antidegradation policies, and implementation procedures consistent with the guidance. EPA invites comments on whether any potential federal baseline WQS should ensure that decisions for reservation waters in the Great Lakes System (as defined in 40 CFR 132.2) are consistent with the WQS, antidegradation policies, and implementation procedures for the Great Lakes System in 40 CFR part 132, in addition to any final federal baseline WQS, even in cases where tribes have not adopted WQS under CWA sections 303(c) and 518.

A. To what waters would the potential federal baseline WQS apply?

In this ANPRM, EPA invites comment on the potential scope of any federal baseline WQS. Such WQS could apply to any or all waters of the United States that are, or after the effective date of a final baseline WQS rule become, located within the exterior boundaries of an Indian reservation except: (1) Indian reservation waters for which EPA has promulgated other federal WQS; and (2) Indian reservation waters where EPA has expressly found that a tribe or state has jurisdiction to adopt WQS, and tribal or state WQS are effective under the CWA. Consistent with EPA's long-standing approach, waters of Indian reservations would include waters located within the boundaries of Pueblos as well as lands held in trust by the United States for an Indian tribe even if the land has not been formally designated as a reservation. See, *e.g.*, 56 FR 64881 (December 12, 1991); see also Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 505 U.S. 505, 511 (1991); HRI v. EPA 198 F.3d 1224 (10th Cir. 2000); Arizona Public Service Co. v. EPA, 211 F.3d 1280 (D.C. Cir. 2000).

Indian reservations are a subset of the broader geographic area that comprises Indian country as a whole. Indian country is defined at 18 U.S.C. 1151 as: (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

B. Which waters should be excluded from the potential federal baseline WQS?

The objective of any federal baseline WQS would be to address the gap in CWA-effective WQS coverage, but it may be appropriate to exclude from any such WQS areas certain waters where other tribal or reservation-specific CWA WQS apply. EPA invites comments on whether federal baseline WQS, if promulgated, should automatically not apply to the following categories of Indian reservation waters:

- Indian Reservation waters for which EPA has promulgated other, reservation-specific federal WQS. Currently, EPA has promulgated WQS for only one Indian reservation, the reservation of the Confederated Tribes of the Colville Reservation (see 40 CFR 131.35).
- Indian reservation waters where EPA has explicitly found that a tribe or state has jurisdiction to adopt WQS, and the tribe or state has adopted WQS that are in effect for CWA purposes in accordance with EPA's WQS regulation at 40 CFR part 131. Currently only 42 tribes have such WQS, but more could reach this status in the future. There are also three instances where EPA has approved states to adopt WQS on reservations or parts of reservations of six Indian tribes.

EPA invites comments on the automatic exclusions described in this section and on whether other automatic exclusions should be considered. In addition, EPA invites comment on whether the application of any exclusion to tribes should be immediate once the Regional Administrator or appropriate delegate approves an authorized tribe's own WQS for CWA purposes.

C. What designated uses should be considered in proposing potential federal baseline WQS?

The first key component of WQS is designated uses. EPA's WQS regulation requires states, and authorized tribes, as well as EPA per 40 CFR 131.22(c), to specify goals and expectations for how each water body is to be used. Designated uses communicate to the public a state or authorized tribe's environmental management objectives and water quality goals for its waters. Clear and accurate designated uses are essential in maintaining the actions necessary to restore and protect water quality and meet the requirements of the CWA. EPA's implementing regulation distinguishes between two broad categories of designated uses: Uses specified in CWA section 101(a)(2) and a non-101(a)(2) use. The states and authorized tribes must take these uses into consideration when designating waters. EPA invites comments on which designated uses should be established in any federal baseline WQS and whether and how to differentiate designated uses for different waters on Indian reservations that would be covered by such federal baseline WQS.

For the federal baseline WQS effort, EPA is considering including designated uses consistent with the uses specified in section 101(a)(2) of the CWA. These uses provide for the protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water, including the protection of human health when consuming fish, shellfish, and other aquatic life. Since 1983, EPA's WQS regulation has interpreted and implemented the CWA through requirements that WQS protect these CWA section 101(a)(2) uses unless states and authorized tribes, or EPA by extension, demonstrate that those uses are infeasible to attain through a use attainability analysis consistent with EPA's regulation at 40 CFR 131.10, effectively creating a rebuttable presumption of attainability. Where such uses do not appropriately reflect tribe-specific or site-specific conditions, EPA, in consultation with tribes, could subsequently modify, sub-categorize, or remove such designated uses consistent with EPA's WQS requirements. For more information on CWA section 101(a)(2) uses, please refer to EPA's Water Quality Standards Handbook, Chapter 2 Designated Uses.[13] EPA requests comment on such an approach and any other alternative approach.

During the tribal consultation process, many tribes stressed the value and importance of protecting water quality at levels appropriate for use in various cultural and traditional activities of individual tribes. EPA does not anticipate proposing to specifically define what cultural and traditional uses are for purposes of this effort, because they can include a wide variety of uses specific to the ceremonies and traditions of each tribe and require different protections. EPA anticipates that, in some cases, the cultural and traditional uses would be adequately protected under the categories of the CWA section 101(a)(2) uses. For example, full body immersion in the water and other fishing-related cultural or traditional practices may, in some instances, be covered by the CWA section 101(a)(2) uses. However, such practices that require protection of aquatic plants used for basket weaving or water quality for ceremonial washings (uses that tribes suggested be protected during the 2015 consultation and coordination effort) may not be adequately covered by the CWA section 101(a)(2) uses.

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[13] *https://www.epa.gov/sites/production/files/2014-10/documents/handbook-chapter2.pdf.*

Accordingly, EPA seeks input on whether, and if so, how to include protection of specific or general cultural and traditional uses explicitly within the scope of the federal baseline WQS. Such a use designation would be accompanied by water quality criteria sufficient to protect the cultural and traditional uses of the tribe's reservation waters. To protect these types of uses, EPA could rely on a combination of numeric and narrative criteria. EPA, in consultation with tribes, could determine at the implementation stage which criteria are applicable to protect the cultural or traditional uses specific to a tribe's reservation waters. Tribal treaty or other reserved rights to fish, hunt, and/or gather on Indian reservations could generally be encompassed by this designated use, to the extent they are not encompassed by the other CWA section 101(a)(2) designated uses (*e.g.*, a designated use of "fishing" or "fish harvesting" could encompass fish and shellfish consumption, and could also encompass sustenance or subsistence fish and shellfish consumption, depending on the reserved right). EPA seeks comment on the express inclusion of language designating cultural and traditional uses in the potential federal baseline WQS and any desired impacts of such a designation.

EPA could also propose to designate a public water supply use for Indian reservation waters covered by the potential federal baseline WQS. A public water supply use is a use specified in CWA section 303(c)(2)(A), and is considered by EPA to be a non-101(a)(2) use, which means that it is unrelated to the protection or propagation of fish, shellfish, wildlife or recreation in or on the water. This designation reflects the requirements in CWA section 303(c) and EPA's implementing regulation at 40 CFR 131.10(a) that when states or authorized tribes, and EPA per 40 CFR 131.22(c), are establishing WQS, the waters' use and value for public water supplies shall be taken into consideration, and that WQS protect the public health or welfare, enhance the quality of water, and serve the purposes of the CWA. Inclusion of a public water supply use designation could help to reinforce EPA's objective to establish baseline human health goals that serve as the basis for CWA protection. Many states have established such a use on large numbers of their water bodies, and EPA anticipates that many tribes will similarly desire such a use to be established on some or most of their waters to help ensure safe drinking water. On the other hand, designating a public water supply use for Indian reservation waters could result in a designation on a water body where such a use is not attainable or otherwise not appropriate. In such instances, EPA could provide a mechanism for the tribe or other parties to provide information for EPA to consider in deciding whether to remove that designation.[14] For more information on non-101(a)(2) uses, please refer to EPA's Water Quality Standards Handbook, Chapter 2 Designated Uses.

EPA is seeking comment on whether the public water supply use is an applicable or suitable use that should be proposed for Indian reservation waters. Options could include not promulgating this use at all for Indian reservation waters, promulgating for all Indian reservation waters, promulgating for some Indian reservation waters, or not promulgating the use for those specific Indian reservation waters identified as unsuitable for such a use prior to finalization of any potential federal baseline WQS rule.

As noted previously, EPA recognizes that it is possible that designated uses set forth in any federal baseline WQS may not ultimately reflect tribe-specific or site-specific conditions or the actual attainability of certain uses. In such circumstances, EPA could subsequently modify, sub-categorize, or remove designated uses that would be established in the potential federal baseline WQS or add additional uses in order to provide limited tailoring of the federal baseline designated uses. This could be accomplished through subsequent federal promulgations consistent with EPA's regulation at 40 CFR part 131.[15] In undertaking any such modification or tailoring, EPA would expect to work in consultation with tribes to assemble information to develop requisite analyses required by the regulation. EPA could also consider ways to streamline any subsequent federal rulemakings, including "batching" designated use modifications that pertain to multiple tribes and delegating such rulemaking authority to the EPA Regional Administrators. EPA solicits comment on this potential approach to appropriately modifying or tailoring any potential federal baseline WQS to address site-specific issues.

EPA continues to encourage tribes who are interested in establishing WQS that reflect site-specific, tailored designated uses better suited to particular Indian reservations to obtain TAS for WQS and adopt their own WQS for EPA review and approval.

D. What water quality criteria should be considered in proposing potential federal baseline WQS?

EPA's current WQS regulation at 40 CFR 131.11 requires adoption of water quality criteria that protect designated uses. Such criteria must be based on sound scientific rationale, must contain sufficient parameters to protect the designated use, and may be expressed in either narrative or numeric form. (See 40 CFR 131.11(a) and (b).) In adopting water quality criteria, states and authorized tribes should establish numeric values based on CWA section 304(a) criteria, CWA section 304(a) criteria modified to reflect site-specific conditions, or other scientifically defensible methods. (See 40 CFR 131.11(b).) As discussed more fully below, CWA section 303(c)(2)(B) requires states and authorized tribes to adopt numeric criteria for priority toxic pollutants for which EPA has developed CWA section 304(a) recommended criteria. CWA section 304(a)(1) requires EPA to develop and publish, and from time to time update, criteria for water quality accurately reflecting the latest scientific knowledge regarding concentrations of specific chemicals or levels of parameters in water that protect aquatic life and human health. Water quality criteria recommendations developed under CWA section 304(a)(1) are based on sound scientific rationale, are protective of the designated use(s), and are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. CWA section 304(a)(1) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting the chemical concentrations in ambient water. EPA's regulation at 40 CFR 131.11(b)(2) provides that states and authorized tribes should also establish narrative criteria where numeric criteria cannot be determined or to supplement numeric criteria. Per 40 CFR 131.22(c), these requirements apply equally to EPA when promulgating federal WQS. Narrative criteria are descriptions of the conditions necessary to attain a water body's designated use, while numeric criteria are values expressed as levels, concentrations, toxicity units or other numbers that quantitatively define the desired condition of the water body.[16] Most state and authorized tribal WQS include both narrative and numeric water quality criteria.

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[14] EPA would remove the designation in a manner similar to how states and authorized tribes can remove such non-101(a)(2) uses in accordance with EPA's regulation at 40 CFR 131.10(k)(3).

[15] Consistent with 40 CFR 131.10, (1) a revision to a use specified in CWA section 101(a)(2) or a sub-category of such a use requires a use attainability analysis and identification of the highest attainable use and associated criteria; and (2) a revision to a non-101(a)(2) use, such as public water supply, requires a use and value demonstration as described in 40 CFR 131.10(a).

1. Narrative Water Quality Criteria

In considering potential approaches to narrative criteria that could be included in any proposed federal baseline WQS, EPA could look to the Quality Criteria for Water, 1986 ("Gold Book"). EPA could establish a narrative water quality criterion that provides that waters must be free from toxic, radioactive, conventional, non-conventional, deleterious, or other polluting substances in amounts that will prevent attainment of the designated uses specified above. EPA could also establish narrative criteria that provide that all waters must be free from substances attributable to wastewater or other dischargers that: (1) Settle to form objectionable deposits; (2) float as debris, scum, oil, or other matter to form nuisances; (3) produce objectionable color, odor, taste, or turbidity; (4) injure or are toxic or produce adverse physiological responses in humans, animals or plants; and/or, (5) produce undesirable or nuisance aquatic life, including excess algae. Such narrative criteria would be considered when identifying the level of protection sufficient to protect any designated uses established in federal baseline WQS, as outlined in section III.C and consistent with 40 CFR 122.44(d), when making WQS implementation decisions. EPA notes that all states have narrative criteria for the protection of designated uses.

EPA could also include narrative criteria that are specifically intended to protect a designated use that includes water-based activities essential to maintaining cultural and traditional practices that might not be adequately covered by the numeric criteria included in the federal baseline WQS. For example, during consultation with EPA, some tribes expressed an interest in protecting wild rice for consumption and reeds for basket weaving. To help better protect those resources, EPA could include a narrative criterion that provides that water quality associated with certain designated uses be free from pollutants in amounts that prevent the growth of aquatic plants regularly harvested by tribes for cultural or traditional activities.

EPA seeks input on whether to include narrative criteria in any proposed federal baseline WQS and, if so, how best to approach the development of such criteria. Specifically, EPA solicits comment on the inclusion of the narrative criteria discussed above, particularly those intended to protect cultural and traditional uses, as well as other suggestions regarding how to protect a tribe's cultural and traditional practices.

In addition, EPA invites comments on how to establish a narrative criterion specifically intended for the protection of downstream waters. Pursuant to CWA sections 303 and 101(a), the federal regulation at 40 CFR 131.10(b) requires that "In designating uses of a water body and the appropriate criteria for those uses, the [s]tate shall take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters." This provision requires states and authorized tribes, and EPA per 40 CFR 131.22(c), to consider and ensure the attainment and maintenance of downstream WQS during the establishment of designated uses and water quality criteria in upstream waters.

EPA's current policy on downstream protection is described in a document entitled, *Protection of Downstream Waters in Water Quality Standards: Frequently Asked Questions* (June 2014) and includes descriptions of numeric and narrative approaches to ensure the maintenance and attainment of downstream WQS.[17] Options to address downstream protection include, but are not limited to, downstream protection values developed in tandem with upstream criteria, use of water quality modeling to ensure upstream criteria are protective of downstream WQS, numeric criteria, and customized narratives. States and authorized tribes have reasonable discretion in choosing their preferred approach to downstream protection based on their individual circumstances. As described in that document, EPA has developed a set of four customizable templates[18] for narrative downstream protection criteria to assist states and authorized tribes with developing a downstream protection narrative criterion. These templates may be used to develop a "broad narrative" criterion that provides basic legal coverage under 40 CFR 131.10(b) (*e.g.*, applies to all waters in the reservation) as well as a variety of "tailored narratives" that can be developed to address specific water bodies, pollutants, and/or water body types.

EPA invites comment on consideration of a downstream protection narrative criterion and seeks input on suggested narrative language, which may be informed through use of the customizable templates. EPA solicits any additional suggestions for other options.

2. Numeric Water Quality Criteria

As noted previously, in accordance with 40 CFR 131.11(b), states and authorized tribes, and EPA per 40 CFR 131.22(c), should establish numeric water quality criteria, unless numeric criteria cannot be established. At minimum, and as noted above, pursuant to CWA section 303(c)(2)(B), numeric water quality criteria must be established for the CWA section 307(a)(1) toxic pollutants.[19] [20] For regulatory purposes, EPA has translated the 65 compounds and families of compounds listed under CWA section 307(a) (which potentially include thousands of specific compounds) into 126 specific toxic substances, which are often referred to as the "priority toxic pollutants."

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[16] See *EPA's Water Quality Standards Handbook*, Chapter 3, section 3.5.2. *https://www.epa.gov/sites/production/files/2014-10/documents/handbook-chapter3.pdf.*

[17] *https://nepis.epa.gov/Exe/ZyPDF.cgi/P100LIJF.PDF?Dockey=P100LIJF.PDF.*

[18] *https://www.epa.gov/wqs-tech/templates-narrative-downstream-protection-criteria-state-water-quality-standards.*

[19] The CWA section 307(a)(1) list of toxic pollutants is codified at 40 CFR 401.15.

[20] Where numeric criteria are not available for such priority toxic pollutants, CWA section 303(c)(2)(B) requires adoption of water quality criteria based on biological monitoring or assessment methods consistent with EPA guidance published pursuant to CWA section 304(a)(8).

EPA seeks input on whether to establish numeric criteria for any federal baseline WQS for all parameters for which EPA has published CWA section 304(a) criteria recommendations, or for some other set of parameters. These include criteria recommendations for both priority toxic pollutants discussed previously as well as many other pollutants and parameters. EPA also invites comments on additional options to consider when establishing numeric criteria, as well as alternative approaches to numeric criteria that could help form the basis for any federal baseline WQS.

a. Aquatic Life Protection

For the federal baseline WQS effort, EPA could include numeric criteria for the protection of aquatic life for all pollutants for which EPA has published CWA section 304(a)(1) criteria recommendations. EPA has established recommended aquatic life criteria under CWA section 304(a) for 60 pollutants; for a full listing and description of these criteria see *https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table.*[21]

Regarding criteria for temperature, EPA recognizes that temperature varies significantly, not only nationally but on a regional and local scale. For instance, temperature requirements for a warm water fishery differ from temperature requirements protective of a cold water fishery, and different stages of aquatic life may in turn need different protective WQS. The appropriate temperature WQS to protect aquatic life, therefore, may vary among and within reservations depending on the location of the reservations and the species endemic to the waters. Due to the broad applicability of the potential federal baseline WQS to Indian reservations across the United States, EPA is interested in obtaining comment on recommended approaches for addressing temperature that would be protective of the federally promulgated designated uses included in any potential federal baseline WQS rule. Specifically, EPA solicits comment on using a narrative temperature criterion to account for significant variability in temperature requirements of aquatic species in different regions, different water bodies, and different temperature sensitivities among species to protect and restore the natural thermal regime (spatial, temporal, seasonal, diurnal) that is protective of the most thermally sensitive species. The translation of this temperature narrative criterion would be conducted during CWA implementation (such as permit, assessment, TMDL programs) to protect the specific aquatic life uses at a site.

Similarly, the appropriate criteria for nutrients may vary among and within reservations depending on the location of the reservations. EPA invites comments on whether and how to include numeric and/or narrative nutrient criteria in any potential federal baseline WQS rule given the resource implications in developing appropriate numeric nutrient criteria for such a large number of water bodies over such a broad geographic area. EPA solicits comment on other potential approaches to addressing nutrients in any potential federal baseline WQS rule.

EPA invites comments on the numeric aquatic life criteria that could be included in any potential federal baseline WQS rule. EPA also invites comments on additional options to consider when establishing numeric criteria for the protection of aquatic life, as well as alternative approaches to numeric criteria for the protection of aquatic life that could help form the basis for any federal baseline WQS.

b. Human Health Protection

For the federal baseline WQS effort, EPA could include numeric criteria for the protection of human health for all pollutants for which EPA has published CWA section 304(a) criteria recommendations. EPA has published recommended human health criteria under CWA section 304(a) for 122 pollutants; for a full listing and description of these criteria, see *https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table.*

To derive criteria for the protection of human health, EPA looks first to its 2000 Human Health Methodology.[22] Human health criteria are based on two types of biological endpoints: (1) Carcinogenicity and (2) systemic toxicity (*i.e.,* all adverse effects other than cancer). EPA takes an integrated approach and considers both cancer and non-cancer effects when deriving human health criteria. Where sufficient data are available, EPA derives criteria using both carcinogenic and non-carcinogenic toxicity endpoints and chooses the lower value. Human health criteria for carcinogenic effects are calculated using the following input parameters: Cancer slope factor, cancer risk level, body weight, drinking water intake rate, fish consumption rate, and a bioaccumulation factor(s). Human health criteria for non-carcinogenic and nonlinear carcinogenic effects are calculated using a reference dose in place of a cancer slope factor and cancer risk level, as well as a relative source contribution, which is intended to ensure that an individual's total exposure from all sources does not exceed the criteria. Each of these inputs is discussed in more detail in this section and in EPA's 2000 Human Health Methodology.

As discussed in this section, EPA seeks additional comment on two of the human health criteria input parameters: The cancer risk level and the fish consumption rate, which may vary depending on policy decisions, other applicable federal laws, and data availability.

EPA invites comments on the human health criteria that could be included in any federal baseline WQS rule. EPA also invites comments on alternative approaches to numeric criteria for the protection of human health that could help form the basis for any federal baseline WQS.

Cancer Risk Level

EPA's CWA section 304(a) national recommended human health criteria generally assume that carcinogenicity is a "non-threshold phenomenon," which means that there are no "safe" or "no-effect" levels because even extremely small doses are assumed to cause a finite increase in the incidence of cancer. Therefore, EPA calculates CWA section 304(a) human health criteria for carcinogenic effects as pollutant concentrations corresponding to lifetime increases in the risk of developing cancer.[23] EPA calculates its CWA section 304(a) human health criteria values at a 10^{-6} (one in one million) cancer risk level and recommends cancer risk levels of 10^{-6} or 10^{-5} (one in one hundred thousand) for the general population. EPA notes that states and authorized tribes can also choose other risk levels, such as 10^{-7} (one in ten million), when deriving human health criteria.

If the pollutant is not considered to have the potential for causing cancer in humans (*i.e.*, systemic toxicants), EPA assumes that the pollutant has a threshold below which a physiological mechanism exists within living organisms to avoid or overcome the adverse effects of the pollutant.

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[21] These criteria were derived by EPA using its *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses. https://www.epa.gov/wqc/guidelines-deriving-numerical-national-water-quality-criteria-protection-aquatic-organisms-and*

[22] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–822–B–00–004. *https://www.epa.gov/wqc/human-health-water-quality-criteria.*

[23] As noted above, EPA recommends the criteria derived for non-carcinogenic effects if it is more protective (lower) than that derived for carcinogenic effects.

For the federal baseline WQS effort, EPA could calculate human health criteria using the 10^{-6} (one in one million) cancer risk level to ensure that the resulting criteria are sufficiently protective and based on a sound scientific rationale. EPA invites comments on this approach and seeks input on other potential options, such as 10^{-5} or 10^{-7}.

Fish Consumption Rate

As noted previously, the fish consumption rate is one of the input parameters used to calculate human health criteria. EPA generally recommends selecting a fish consumption rate that is based upon local data and, where sufficient data are available, selecting a fish consumption rate that reflects consumption that is not suppressed by fish availability or concerns about the safety of available fish.[24] However, given the broad geographic scope of this potential federal baseline WQS rule, it could be challenging to identify reservation-, water-, or even region-specific fish consumption rates based on available data. EPA current thinking is to propose a more limited set of options to address fish consumption rate in any potential numeric human health criteria that may be proposed as part of a federal baseline WQS regulation. Some potential options include:

—EPA's national default fish consumption rate of 22 g/day, which is a 90th percentile value found to be reasonable and adequately representative of the general population of fish consumers based on the 2003–2010 data from the National Health and Nutrition Examination Survey (NHANES).[25]

—EPA's national default subsistence value of 142 g/day, representing subsistence fishers whose daily consumption is greater than the general population, as presented in EPA's 2000 Human Health Methodology.

—160 g/day, which provides for half of the USDA's recommended daily protein intake from all sources to come from fish consumption (which would assume the other half would come from sources other than fish and shellfish).

—175 g/day, the 95th percentile value of the data from surveyed tribal members in the Fish Consumption Survey of the Umatilla, Nez Perce, Yakama, and Warm Springs Tribes of the Columbia River Basin (Columbia River Inter-Tribal Fish Commission (CRITFC), 1994).[26]

EPA could consider proposing an approach in which it assigns, as a default, human health criteria based on one of the four fish consumption rate options above to all reservations, and allow affected tribal governments, should they so request in comments, to select one of the other three options above for their reservations, based on any applicable rights reserved in treaties or other federal law, and available data and information. In such a case, EPA could promulgate reservation-specific human health criteria based on one of the other three alternative fish consumption rates for such reservation(s). EPA invites comments this approach, as well as comments on additional options to consider when establishing numeric criteria for the protection of human health as part of the federal baseline WQS effort.

During consultation, EPA heard a number of tribes suggest that their own specific survey data be used in calculating the fish consumption rate for human health criteria for a specific reservation. EPA recognizes why such an approach may be attractive to tribes, but has concerns that attempting to provide individual, reservation-specific tailoring opportunities could present a very large workload that could substantially delay proposal and finalization of any federal baseline WQS effort. EPA notes that an alternative approach to fully tailor WQS to a particular reservation is through the TAS and WQS adoption processes. EPA requests comment on these considerations and how they should be addressed in any potential federal baseline WQS regulation.

E. What approaches should the potential federal baseline WQS take with regard to antidegradation requirements?

Maintaining high water quality is critical to supporting economic and community growth and sustainability. Protecting high water quality also provides a margin of safety that will afford the water body increased resilience to potential future stressors, including climate change. While preventing degradation and maintaining a reliable source of clean water involves costs, it can be more effective and efficient than investing in long-term restoration efforts or remedial actions.

Antidegradation requirements are an essential component of WQS and play a critical role in maintaining and protecting the valuable water resources. Although designated uses and criteria are the primary tools used to achieve the goals of the CWA, antidegradation requirements complement these by providing a framework for making decisions regarding changes in water quality. In the 1987 amendments to the CWA, Congress expressly affirmed the principle of antidegradation that is reflected in section 101 of the Act to "*maintain* the chemical, physical and biological integrity of the Nation's waters." In the 1987 amendments, Congress incorporated a reference to antidegradation policies in CWA section 303(d)(4)(B), thus confirming that an antidegradation policy is an integral part of the CWA and explaining the relationship between the antidegradation policies and other regulatory programs under the CWA.

The federal antidegradation regulation requires development and adoption of an "antidegradation policy" and development of "antidegradation implementation methods." 40 CFR 131.12. The intent of an antidegradation policy is to ensure that in all cases, at a minimum: (1) Water quality necessary to support existing uses is maintained; (2) that where water quality is better than the minimum level necessary to support protection and propagation of fish, shellfish and wildlife, and recreation in and on the water, that water quality is also maintained and protected unless, through a public process, some lowering of water quality is deemed to be necessary to accommodate important economic or social development in the area in which the water is located; and (3) waters identified as Outstanding National Resource Waters are protected. For the purposes of EPA's national WQS regulation, "antidegradation policies" must be in rule or other legally binding form, and must be consistent with the requirements of 40 CFR 131.12(a). "Antidegradation implementation methods" refer to any additional documents and/or provisions developed by a state or authorized tribe, and EPA per 40 CFR 131.22(c), which describes methods for implementing its antidegradation policy, whether or not the state or authorized tribe formally adopts the methods in regulation or other legally binding form. EPA's initial thinking is that any proposed federal baseline WQS would include both an antidegradation policy and antidegradation implementation methods. EPA seeks input on establishing antidegradation requirements for any federal baseline WQS, whether antidegradation implementation methods should be included in rule, as well as alternative approaches that could help form the basis for any federal baseline WQS.

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[24] USEPA. January 2013. *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions. https://www.epa.gov/wqc/human-health-ambient-water-quality-criteria-and-fish-consumption-rates-frequently-asked.*

[25] EPA's national fish consumption rate is based on the total rate of consumption of fish and shellfish from inland and nearshore waters (including fish and shellfish from local, commercial, aquaculture, interstate, and international sources). USEPA. January 2013. *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions. https://www.epa.gov/wqc/human-health-ambient-water-quality-criteria-and-fish-consumption-rates-frequently-asked.*

[26] Accounts for consumption of fish from inland and nearshore waters, as well as anadromous fish.

1. Antidegradation Policy

The antidegradation policy provisions of any federal baseline WQS rule would have to be consistent with the federal antidegradation policy at 40 CFR 131.12(a).[27] Such provisions would establish baseline levels of water quality protection for Indian reservation waters, as required, by the CWA and federal WQS regulation. EPA notes that the language in any federal baseline WQS rule would need to be slightly different from 40 CFR 131.12(a) in order to make the policy easier to understand in the federal baseline WQS context.

When identifying high quality (or Tier 2) waters, EPA's initial thinking is that high quality waters could be identified, at the time a lowering of water quality is proposed, on a parameter-by-parameter basis. The national WQS regulation allows states and authorized tribes, and EPA per 40 CFR 131.22(c), to utilize either a parameter-by-parameter basis or a water body-by-water body basis to identify high quality waters (see 40 CFR 131.12(a)(2)(i)). Under the parameter-by parameter approach, states, authorized tribes (and EPA where necessary) determine whether water quality is better than the applicable criteria for a specific parameter or pollutant that would be affected by a new discharge or an increase in an existing discharge of the pollutant. For example, if zinc levels were 20 milligrams per liter (mg/L) and the applicable criterion was 120 mg/L, that water body would be a high quality water for zinc, but might not necessarily be high quality for another parameter. Determining which parameters are at a quality higher than necessary to support the CWA section 101(a)(2) uses is generally made at the time of a permit application for a new discharge or an increase in an existing discharge of the pollutant in question. The parameter-by-parameter basis is straightforward, may result in more Tier 2 protections being afforded to more waters, and lends itself to greater public transparency. EPA seeks input on identifying high quality waters using the parameter-by-parameter basis in any federal baseline WQS rulemaking.

EPA's initial thinking is that water bodies could be identified that are of exceptional recreational, ecological, or other significance (*e.g.,* Outstanding National Resource Waters). This provision would be consistent with 40 CFR 131.12(a)(3), and in effect, could establish the highest level of protection by prohibiting the lowering of water quality. Any proposed federal baseline WQS could outline a nomination process to identify Indian reservation waters that warrant protection as an Outstanding National Resource Water. Such a process could specify that any interested party may nominate a specific water for such protection and that the Regional Administrator, in consultation with the appropriate tribal government(s), will make the final decision to assign the water as an Outstanding National Resource Water. A decision to assign a water as an Outstanding National Resource Water is subject to the public participation requirements of 40 CFR part 25, although a public hearing is not required.

EPA invites comments on the antidegradation policy outlined in this section and how this could be reflected in any potential federal baseline WQS proposal. EPA also seeks input on any additional options to consider when establishing an antidegradation policy for any potential federal baseline WQS rule.

2. Antidegradation Implementation Methods

Consistent with 40 CFR 131.12(b), methods to implement the antidegradation policy must be developed, provide an opportunity for public involvement, and be made available to the public. While antidegradation implementation methods are not required to be contained in regulation, EPA is considering whether to include antidegradation implementation methods as a section of any proposed federal baseline WQS regulation. Because the antidegradation implementation methods would inform permit decisions and other implementation actions, EPA's current view is that for public transparency and for consistency in implementation, any federal baseline WQS effort should include antidegradation implementation methods in regulation. EPA invites comments on whether and how EPA could establish antidegradation implementation methods for any potential federal baseline WQS rulemaking. EPA also seeks input on any additional options to consider when establishing antidegradation implementation methods for any potential federal baseline WQS rule.

The WQS regulation at 40 CFR 131.12 does not specify minimum elements that must be included in antidegradation implementation, however, EPA provided a list of the areas that antidegradation implementation methods would need to address, at a minimum, to be consistent with the national WQS regulation (see 78 FR 58530, September 4, 2013). The list of minimum elements includes: (1) Scope and applicability; (2) Existing uses protection; (3) High quality water protection, including how high quality waters are to be identified, and the analyses and procedures that must be met to determine whether to allow a lowering of high quality waters; (4) Outstanding National Resource Water protection; and (5) Thermal Discharges.[28] The federal baseline WQS effort could establish antidegradation implementation methods for each of these minimum elements.

EPA invites comments on the components and contents of the antidegradation implementation methods that could be established to meet the minimum elements, as well as any additional options to consider when establishing antidegradation implementation methods for any potential federal baseline WQS rule.

F. How could wetlands be addressed in the potential federal baseline WQS?

The national WQS regulation at 40 CFR 131.3(i) defines WQS as "provisions of [s]tate[29] or Federal law

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[27] 40 CFR 131.12(a) outlines the required contents of state and authorized tribal antidegradation policies; 40 CFR 131.22(c) makes clear that in promulgating WQS, EPA is subject to the same policies, procedures, analyses, and public participation requirements established for states and authorized tribe in the national WQS regulation (*e.g.,* the requirements at 40 CFR 131.12(a)).

[28] EPA is not requesting comment on EPA's interpretation of CWA section 316 or the implementing regulation at 40 CFR 124.66.

[29] EPA's regulation, at 40 CFR 131.3(j), defines "state" to include the "50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, the

Continued

which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. WQS are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.'' Wetlands that are ''waters of the United States'' can be covered by federal WQS that help to provide a mechanism for their protection. A number of states have established WQS for wetlands, and EPA recently worked together with the Association of Clean Water Administrators to establish a template to assist states and authorized tribes in establishing narrative WQS for wetlands.

Wetlands often need specialized WQS because they have different functions and different vulnerability and wetland-specific WQS can provide robust protection for wetlands and their functions. Wetlands exist as ecosystems along the margins (land-sea, land-lake, land-river) and in depressional landscapes (*e.g.,* prairie potholes in the Midwest and kettle-hole wetlands in the northern United States). By season and location, wetlands experience variable water depth and velocity, soil type and saturation levels, vegetation, nutrient levels, sediment type, and oxygen demand, both within a given wetland and among wetland types.

EPA seeks comment on whether to include specific WQS provisions for the protection of wetlands WQS and, if so, suggestions for language, considerations, and approaches for doing so. Such wetland-specific WQS could include specific designated uses, narrative criteria, and antidegradation requirements developed from EPA's online template, see *https://www.epa.gov/wqs-tech/templates-developing-wetland-water-quality-standards.*

G. Which general provisions should be included in the potential federal baseline WQS?

As specified in 40 CFR 131.13—131.15, WQS can generally include certain discretionary policies that generally affect how WQS are applied or implemented. Most common among such provisions are those addressing mixing zones, compliance schedules authorizing provisions, and WQS variances. EPA requests input on whether it would be appropriate to include such provisions in any proposed federal baseline WQS regulation and, if so, which provisions and how they should be framed. EPA requests specific comment on inclusion of the following three WQS provisions that EPA is considering to ensure effective implementation of any potential federal baseline WQS proposal.

1. Mixing Zone Authorizing Provision

Should EPA consider inclusion of a provision in the potential federal baseline WQS rule, if promulgated, to allow EPA to establish mixing zones in permitting scenarios on a case-by-case basis after consultation with the appropriate tribal government(s)?

EPA's guidance on mixing zones has been detailed in a number of Agency publications, including EPA's Water Quality Standards Handbook, Chapter 5, General Policies and the Technical Support Document for Water Quality-based Toxics Control (TSD), March 1991, p33–34, 70–78.

EPA invites comments on whether to include a mixing zone authorizing provision in any potential federal baseline WQS rule, as well as any additional options to consider when establishing a mixing zone authorizing provision.

2. Compliance Schedule Authorizing Provision

Should EPA consider inclusion of a compliance schedule authorizing provision in the potential federal baseline WQS rule, if promulgated, to allow compliance schedules to be included in NPDES permits on a case-by-case basis when appropriate after consultation with the appropriate tribal government(s)? Such authorizing provision would allow for compliance schedules to be included in NPDES permits to allow permittees additional time to achieve compliance with effluent limitations implementing the requirements of the CWA and applicable regulations.

By including such a provision, the potential federal baseline WQS would authorize EPA to include a compliance schedule, when appropriate and consistent with 40 CFR 122.47, in a NPDES permit for a new, recommencing or existing discharger to Indian reservation waters of the United States. Where it did so, the discharger to whom a permit was issued or reissued on or after the effective date of the final rule would have to comply with the permit limitations and requirements by the compliance schedule date. A new source or new discharger to Indian reservation waters of the United States would not be eligible for a compliance schedule unless it meets the requirements of 40 CFR 122.47(a)(2). If a new source or new discharger is not granted a compliance schedule, it must comply with any water quality-based effluent limitation in a permit issued on or after the effective date of the final rule upon commencing discharge.

EPA invites comment on the inclusion of a compliance schedule authorizing provision as part of any potential federal baseline WQS rule, as well as any additional options to consider when establishing a compliance schedule authorizing provision.

3. WQS Variance Authorizing Provision

Should EPA consider inclusion of a provision that would establish a process for EPA to issue WQS variances on a case-by-case basis after consultation with the appropriate tribal government(s)?

A WQS variance is a time-limited designated use and criterion (*i.e.,* interim requirements) that is targeted to a specific pollutant(s), source(s), and/or water body segment(s) that reflects the highest attainable condition during the specified time period. As such, a WQS variance requires a public process and EPA review and approval under CWA section 303(c). While the underlying designated use and criterion reflect what is ultimately attainable, the WQS variance reflects the highest attainable condition for a specific timeframe and is, therefore, less stringent. The interim requirements specified in the WQS variance apply only for CWA section 402 permitting purposes and in issuing certifications under section 401 of the CWA for the pollutant(s), permittee(s), and/or water body or waterbody segment(s) covered by the WQS variance.

Such interim requirements may be adopted based on documentation demonstrating the need for a WQS variance consistent with 40 CFR 131.14(b)(2). Where the underlying designated use and criterion are not being met, WQS variances that reflect a less stringent, time-limited designated use and criterion would allow dischargers additional time to implement adaptive management approaches to improve water quality, but still retain the underlying designated use as a long term goal for the water body. WQS variances can apply to individual dischargers, multiple dischargers, and to entire water bodies or segments.

A WQS variance serves as the basis for the water quality-based effluent limit in NPDES permits. However, the interim requirements do not replace the underlying designated use and criteria

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Commonwealth of the Northern Mariana Islands, and Indian Tribes that EPA determines to be eligible for purposes of the water quality standards program.''

for the water body as a whole for all CWA purposes. A WQS variance is designed to lead to improved water quality over the duration of the WQS variance and, in some cases, full attainment of designated uses due to advances in treatment technologies, control practices, or other changes in circumstances, thereby furthering the objectives of the CWA. For more information on WQS variances, please refer to EPA's final rulemaking to update the national WQS regulation.[30]

EPA's current regulation allows for adoption of a WQS variance, consistent with 40 CFR 131.14, as part of a state or authorized tribe's WQS. EPA would consider establishing WQS variances to EPA's promulgated federal baseline designated uses and criteria on a case-by-case basis in consultation with tribes. Recognizing such tribes may have limited resources and minimal to no expertise with WQS development and administration, EPA could work in consultation with the affected tribal government(s) to assemble documentation to justify a WQS variance and meet the requirements of 40 CFR 131.14, as appropriate.

EPA invites comments on the inclusion of a WQS variance authorizing provision as outlined in this section, any additional options to consider when establishing a WQS variance provision for any potential federal baseline WQS rule, and on the implementation of the WQS variance provision.

H. Can tribes adopt WQS of their own?

In any final federal baseline WQS rule, EPA could include an explicit section to make clear that a tribe approved for TAS eligibility under CWA section 518 would continue to be able to adopt WQS of its own and submit them to EPA for approval, even after baseline WQS became effective. The tribe would need to apply to EPA for TAS to administer the WQS program. If EPA determines the tribe is eligible to administer the program, using the eligibility criteria and procedures in 40 CFR 131.8, then EPA would review the WQS adopted and submitted by the tribe to EPA. At that point, EPA reviews the submission under the process it regularly uses for tribes and states to ensure they are consistent with the requirements of the CWA and EPA's implementing regulation at 40 CFR part 131, and can approve in whole or in part.[31] For any such WQS that are approved, the corresponding federal baseline WQS rule would no longer apply to such tribe's reservation waters because such waters would fall within the categories of waters excluded from any federal baseline WQS rule, namely reservation waters with CWA-effective WQS. Therefore, the federal baseline WQS would not affect a tribe's ability to apply to administer its own WQS program and adopt WQS under 40 CFR 131.8.

EPA invites comments on the inclusion of a section making clear that tribes, at any time, may seek TAS and, if approved by EPA, submit their own WQS for CWA purposes as outlined in this section.

IV. Statutory and Executive Order Review

A. Statutory and Executive Order Reviews

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this is a "significant regulatory action" because the action raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemaking do not apply in this case. Should EPA subsequently determine to pursue a rulemaking, EPA will address the statutes and Executive Orders as applicable to that rulemaking.

B. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This ANPRM seeks input on key issues related to whether and how to fill the gap of WQS coverage in Indian reservation waters. In preparation for this ANPRM effort, EPA consulted and coordinated with tribal officials, consistent with EPA's Policy on Consultation and Coordination with Indian tribes. EPA initiated consultation in the Fall of 2015, from August through November, and then continued consultation in the Summer of 2016, from June to August. During that time, EPA received considerable input from tribal officials, most of it supportive of this effort. The types of questions posed by tribal officials are reflected in this ANPRM for further discussion and public comment. EPA will continue to consult, coordinate, and engage tribes, to permit them to have meaningful and timely input into development of any potential federal baseline WQS rulemaking.

EPA invites comment from tribes on whether establishing federal baseline WQS is an appropriate step in advancing the federal trust responsibility to federally recognized tribes, and enhancing tribal government sovereignty through protection of reservation water quality. EPA is interested in any input regarding whether there are any concerns that would warrant not including a tribe in any final federal baseline WQS rule. While EPA is considering proposing to apply these WQS to all Indian reservations without CWA-effective WQS, in order to meet the goals of the CWA and better protect Indian reservation waters, EPA invites comment on other options.

List of Subjects in 40 CFR Part 131

Environmental protection, Indians—lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: September 19, 2016.

Gina McCarthy,

Administrator.

[FR Doc. 2016–23432 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

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[30] 80 FR 51019, August 21, 2015. *https://www.gpo.gov/fdsys/pkg/FR-2015-08-21/pdf/2015-19821.pdf.*

[31] CWA section 303(c)(2) requires states and authorized tribes to submit new and revised WQS to EPA for review. EPA is required to review and approve or disapprove the WQS pursuant to CWA section 303(c)(3). EPA's goal is to work closely and collaboratively with states and authorized tribes throughout the WQS development and revision process.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 150818735–6236–01]

RIN 0648–BF28 and 0648–BF32

Endangered and Threatened Species; Designation of Critical Habitat for Five Distinct Population Segments of Atlantic Sturgeon; Reopening of Public Comment Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, reopening of public comment period.

SUMMARY: NMFS hereby reopens the comment period on the proposed

designation of critical habitat for five distinct population segments (DPSs) of Atlantic sturgeon. Critical habitat for the five DPSs was proposed in two separate proposed rules, published on June 3, 2016, with a 90-day comment period.

DATES: The comment period for the proposed rules that published on June 3, 2016 (81 FR 35701 and 81 FR 36078) are reopened. Comments must be submitted via the Federal eRulemaking Portal or received at the appropriate address (see **ADDRESSES**) by October 14, 2016.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2015–0107 for the proposed rule for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs and identified by NOAA–NMFS–2015–0157 for the Carolina and South Atlantic DPSs, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0107* or *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0157,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* For docket NOAA–NMFS–2015–0107, submit comments to Assistant Regional Administrator, Protected Resources Division, NMFS, Greater Atlantic Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. For docket NOAA–NMFS–2015–0157, submit comments to Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Andrew Herndon, NMFS, SERO at 727–824–5312; Lynn Lankshear, NMFS, GARFO at 978–282–8473; or Lisa Manning, NMFS, Office of Protected Resources at 301–427–8466.

SUPPLEMENTARY INFORMATION:

Reopening

On June 3, 2016, we, NMFS, published two proposed rules (81 FR 35701and 81 FR 36078) to designate critical habitat for the Gulf of Maine, New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs of Atlantic sturgeon under the Endangered Species Act of 1973 (ESA), as amended. A 90-day public comment period was provided. Public comments were due by September 1, 2016. NMFS received multiple requests for extension of the comment period. Based on the requests, the comment period for each of these proposed rules is reopened for an additional 15 days to provide further opportunity for public comment.

We are soliciting comments from the public on all aspects of the proposal, including information on the economic, national security, and other relevant impacts. Comments already received during the 90-day comment period and additional comments received during the reopened 15-day comment period will be considered prior to making the final designations.

Background

We propose to designate critical habitat for the Gulf of Maine, New York Bight, Chesapeake Bay, Carolina, and South Atlantic Distinct Population Segments (DPSs) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*). The specific areas proposed for designation include approximately 244 kilometers (152 miles) of aquatic habitat for the Gulf of Maine DPS, 547 kilometers (340 miles) of aquatic habitat for the New York Bight DPS, and 729 kilometers (453 miles) of aquatic habitat for the Chesapeake Bay DPS. Our proposed determinations for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs are described in the document identified by NOAA–NMFS–2015–0107. We also propose to designate approximately 1,997 kilometers (1,241 miles) of occupied aquatic habitat and 383 kilometers (238 miles) of unoccupied aquatic habitat for the Carolina DPS, and approximately 2,911 kilometers (1,809 miles) of occupied aquatic habitat and 33 kilometers (21 miles) of unoccupied aquatic habitat for the South Atlantic DPS. Our proposed determinations for the Carolina and South Atlantic DPSs are described in the document identified by NOAA–NMFS–2015–0157. We do not propose to exclude any particular areas from the proposed critical habitat designations.

Authority: 16 U.S.C. 1533.

Dated: September 26, 2016.

Samuel D Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–23530 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160815740–6740–01]

RIN 0648–BG28

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Revision of Bycatch Reduction Device Testing Manual

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Gulf FMP), NMFS proposes to make administrative revisions to the Bycatch Reduction Device Testing Manual (BRD Manual). The BRD Manual contains procedures for the testing and certification of BRDs for use in shrimp trawls in the exclusive economic zone (EEZ) in the Gulf of Mexico (Gulf) and South Atlantic. The proposed changes to the BRD Manual remove outdated or obsolete data collection forms currently appended to the BRD Manual and revise the text to make several procedural steps outlined in the BRD Manual clearer and easier to understand. The intended effect of these revisions is to increase understanding of the BRD certification protocols.

DATES: Comments must be received by October 14, 2016.

ADDRESSES: You may submit comments on the proposed rule, identified by NOAA–NMFS–2016–0109, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0109,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Susan Gerhart, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Requests for copies of the BRD Manual should be sent to the NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *susan.gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: The shrimp fishery in the Gulf EEZ is managed under the Gulf FMP. The Gulf FMP was prepared by the Gulf of Mexico Fishery Management Council (Gulf Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The shrimp fishery in the South Atlantic EEZ is managed under the FMP for the Shrimp Fishery of the South Atlantic Region (South Atlantic FMP). The South Atlantic FMP was prepared by the South Atlantic Fishery Management Council (South Atlantic Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

Initially, the South Atlantic and Gulf Councils developed separate amendments to their respective FMPs to require the use of certified BRDs, and the South Atlantic Council developed their own BRD Manual, in cooperation with NMFS. The South Atlantic Council established these requirements through Amendment 2 to the South Atlantic FMP in 1997 (62 FR 18536, April 16, 1997). Subsequently, the Gulf Council required, with limited exceptions, the use of certified BRDs through Amendment 9 to the Gulf FMP (63 FR 18139, April 14, 1998). Amendment 9 specified that NMFS would develop a testing protocol for examining the bycatch reduction performance of additional BRD designs. Regulations implementing this initial testing protocol were effective July 13, 1999 (64 FR 37690, July 13, 1999), except for a collection-of-information requirement, which became effective September 29, 1999 (64 FR 52427, September 29, 1999). In 2005, in Amendment 6 to the South Atlantic FMP, the South Atlantic Council transferred authority to NMFS to maintain and revise the BRD Manual, and established a certification criterion identical to the Gulf Council's eastern Gulf criterion (70 FR 73383, December 12, 2005). In 2008, NMFS combined the separate BRD Manuals, and established a single procedural process for testing BRDs, and a single BRD certification criterion for both the Gulf and South Atlantic (73 FR 8219, February 13, 2008). The proposed administrative changes would not change the existing BRD certification criterion.

When the two BRD Manuals were initially developed, no mandatory observer programs existed for Gulf and South Atlantic Council-managed species, thus there was no officially established set of data collection forms. To provide BRD testing applicants with a standardized reporting method, forms and instructions developed and used by NMFS and other researchers during a 1990s Congressionally-mandated Shrimp Trawl Bycatch Research Program were provided with the BRD Manual as Appendices A–I. This family of forms was officially submitted for review and approval under the Paperwork Reduction Act and assigned a control number by the Office of Management and Budget (OMB), OMB–0648–0345. Subsequently, mandatory observer programs were established by NMFS for the reef fish fishery and the shrimp fishery in the Gulf, and the various fisheries managed by NMFS' Highly Migratory Species Division. NMFS established a package of observer data collection forms to cover all of these programs with an assigned control number of OMB–0648–0593, and incorporated the family of forms in a standardized Observer Training Manual, including the BRD testing and certification family of forms.

Over time, the various data collection forms used by NMFS have been revised or discarded, making many of the forms in the BRD testing family of forms obsolete (OMB–0648–0345). Currently, only three of the eight original BRD testing data forms in the Observer Training Manual are specific to BRD testing. NMFS intends to incorporate those forms into the OMB–0648–0593 family of forms, and has already discontinued the OMB–0648–0345 family of forms. Therefore, the forms need to be removed as appendices to the BRD Manual and text revised within the BRD Manual to remove references to those forms.

NMFS has also revised some text and instructions in the BRD Manual to make the manual clearer and easier to understand. For example, where forms were referenced, the instructions only stated that "The applicant should submit a completed application form (Appendix A)"; given this action would remove that form from the BRD Manual, the instructions have been revised to reflect the information that the applicant must submit. Other revisions to the BRD Manual include increased consistency of terms; for example, "test" and "trawl" were used interchangeably, as were "trawl" and "net."

These proposed changes to the BRD Manual were presented to the Gulf and South Atlantic Councils for their consideration and no substantive comments were received from either Council regarding these administrative changes.

These proposed changes to management measures would not add to or change any existing Federal regulations. Therefore, no codified text is associated with these proposed changes to management measures.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Gulf and South Atlantic FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed change to management measures, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to make non-regulatory administrative revisions to the BRD Manual to simplify test reporting procedures and make the procedural steps outlined in the BRD Manual clearer and easier to understand. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule, if implemented, would directly affect entities that apply for and participate in BRD testing. The primary entities expected to apply for the BRD testing are state government, academic, and not-for-profit entities. Independent commercial shrimping businesses in either the Gulf or South Atlantic may also be included among applicants. NMFS has not identified any other small entities that would be expected to be directly affected by this proposed change to management measures.

The SBA defines a small organization as any not-for-profit enterprise that is independently owned and operated and not dominant in its field of operation. This definition includes private educational institutions. The SBA also defines a small governmental jurisdiction as the government of cities, counties, towns, townships, villages, school districts, or special districts with a population less than 50,000. For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

Over the period 2011–2015, a total of 5 separate entities applied for BRD testing. These entities were NMFS, the Gulf and South Atlantic Fisheries Foundation (Foundation), the University of Mississippi, Texas A&M University, and one commercial shrimp fisherman. Individual applications are required for each BRD tested and a total of 26 applications were submitted by these 5 entities over this period. The most applications in any year during this period was 10 (2011), submitted by 3 applicants, and the fewest applications was 1 (2015). NMFS submitted the most applications, 10, followed by the Foundation with 9. The University of Mississippi submitted three applications, and both Texas A&M University (2013) and the commercial shrimp fisherman (2015) submitted a single application.

In addition to these entities, previous applicants have included the Texas Parks and Wildlife Department, the Florida Department of Environmental Protection, and the University of Georgia. The respective state agencies are extensions of their state governments and, as such, exceed the SBA population thresholds for small government entities. Similarly, the public academic institutions are extensions of the respective state government educational systems and, therefore, are similarly classified as large entities. Although no private colleges or universities have applied for BRD testing, these institutions are generally understood to be smaller than public institutions in terms of student population, staff, and operational budgets. As a result, any private educational institutions that might apply for BRD testing would be expected to be a small entity. Any commercial shrimp fisherman that might apply for BRD testing would do so from the perspective of research and not commercial fishing. However, as a commercial shrimp fisherman, this entity would be expected to primarily engage in commercial fishing and not research. Thus, for these entities, the commercial fishing revenue threshold would apply. From 2011 through 2013, the greatest average annual revenue for a single commercial shrimp fishing business in the Gulf was approximately $2.48 million. More recent information is not available, nor is similar information available on commercial shrimp fishermen in the South Atlantic. Nevertheless, because of the low maximum revenue total in the Gulf, it is assumed that any commercial shrimp fisherman that would apply for BRD testing would be a small business entity. In summary, this proposed change to management measures would be expected to directly affect a few small entities, such as not-for-profit institutions, commercial shrimp businesses, and private colleges or universities.

The proposed revisions to the BRD Manual would not directly affect fishery participation, harvest, or the business operation of any small entity. As discussed in the Summary and Supplementary Information sections of this proposed change to management measures, the proposed changes are administrative in nature. This proposed change to management measures would only eliminate test reporting forms in the BRD Manual that are either obsolete or available elsewhere (NMFS standardized Observer Training Manual), revise text and instructions that reference these forms, list the information needed to be reported for BRD testing instead of the specific forms, and improve the consistency of terms used in the BRD Manual. These proposed changes are purely administrative. They would not be expected to affect actual BRD testing or the costs associated with such, but would be expected to improve understanding of the testing process and requirements, and facilitate better circumstances under which BRD research and gear development may proceed. Although subsequent BRD testing could result in future changes in allowable BRDs, the use of which could have direct economic consequences, these would be indirect effects of this proposed rule and outside the scope of the Regulatory Flexibility Act.

Based on the discussion above, NMFS determines that this proposed change to management measures, if implemented, would not have a significant adverse economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

The BRD Manual published as an appendix to a final rule published in the **Federal Register** on February 13, 2008 (73 FR 8219, February 13, 2008), is revised to read as follows.

Note: The following appendix will publish in the **Federal Register** but will not appear in the Code of Federal Regulations. See the contacts under **ADDRESSES** to obtain the complete BRD Manual.

Appendix—Bycatch Reduction Device Testing Manual

Definitions

Bycatch reduction criterion is the standard by which a BRD candidate will be evaluated. To be certified for use by the shrimp fishery in the Exclusive Economic Zone (EEZ) off the southeastern United States (North Carolina through Texas), the BRD candidate must demonstrate a successful reduction of total finfish bycatch by at least 30 percent by weight.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of southeastern United States.

Certified BRD is a BRD that has been tested according to the procedure outlined herein and has been determined by the RA as having met the bycatch reduction criterion.

Control trawl means a trawl that is not equipped with a BRD during a test.

Experimental trawl means the trawl that is equipped with the BRD candidate during a test.

Evaluation and oversight personnel means scientists, observers, and other technical personnel who, by reason of their occupation or scientific expertise or training, are approved by the RA as qualified to evaluate and review the application and testing process.

Gear Test Authorization (GTA) means a document signed by the RA that specifically exempts a person/vessel from Federal regulations requiring the use of BRDs in Federal waters. This GTA must be issued prior to conducting any tests on BRD candidates in Federal waters.

Net/side bias means when the net(s) being fished on one side of the vessel demonstrate a different catch rate (fishing efficiency) than the net(s) being fished on the other side of the vessel during paired-net tests.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test.

Paired-net test means a tow during certification trials where a control net and an experimental net are fished simultaneously, and the catches and catch rates between the nets are compared.

Provisional Certification Criterion means a secondary benchmark that would allow a BRD candidate to be used for a time-limited period in the southeastern shrimp fishery. To meet the criterion, the BRD candidate must demonstrate a successful reduction of total finfish bycatch by at least 25 percent by weight.

Provisionally certified BRD means a BRD that has been tested according to the procedure outlined herein and has been determined by the RA as having met the provisional certification criterion. A BRD meeting the provisional certification criterion would be certified by the RA for a period of 2 years.

Regional Administrator (RA) means the Southeast Regional Administrator, National Marine Fisheries Service.

Required measurements refers to the quantification of gear characteristics such as the dimensions and configuration of the trawl, the BRD candidate, the doors, or the location of the BRD in relation to other parts of the trawl gear that are used to assess the performance of the BRD candidate.

Sample size means the number of successful tows.

Shrimp trawler means any vessel that is equipped with one or more trawl nets where the on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth herein and the terms and conditions of the Letter of Authorization, and there is no indication problematic events occurred during the tow that would impact or influence the fishing efficiency (catch) of one or both nets.

Tow time means the total time (hours and minutes) an individual trawl was fished (*i.e.*, the time interval beginning when the winch is locked after deploying the net overboard, and ending when retrieval of the net is initiated).

Trawl means a net and associated gear and rigging used to catch shrimp. The terms trawl and net are used interchangeably throughout this manual, although in most instances, "trawl" is used to reflect the entire fishing rig (*e.g.*, doors, tickler chain, net, turtle excluder device, etc.), whereas a "net" is used to reflect a component of that fishing rig.

Try net means a separate net pulled for brief periods by a shrimp trawler to test for shrimp concentrations or determine fishing conditions (*e.g.*, presence of absence of bottom debris, jellyfish, bycatch, and seagrasses).

Tuning a net means adjusting the trawl and its components to minimize or eliminate any net/side bias that exists between the two nets that will be used as the control and experimental trawls during the certification test.

I. Introduction

This Bycatch Reduction Device Testing Manual (BRD Manual) establishes a standardized process for evaluating whether bycatch reduction device (BRD) candidates meet the established bycatch reduction criterion. BRDs that meet the criterion can be certified for use in the EEZ by the southeastern shrimp fishery. Requirements for BRDs used in shrimp trawls in the Gulf of Mexico and South Atlantic can be found in 50 CFR part 622.

The requirement to use BRDs in state waters varies by state. Persons wishing to conduct BRD candidate tests exclusively in state waters do not need to apply to the National Marine Fisheries Service (NOAA Fisheries) for authorization to conduct these tests but should contact the appropriate state officials for authorizations. However, for NOAA Fisheries to certify a BRD candidate for use in Federal waters, tests conducted in state waters must meet the criteria for the operations plan and data collection procedures established in this manual.

II. BRD Candidate Tests

A. Application

Persons interested in evaluating the effectiveness of a BRD candidate to reduce finfish from a shrimp trawl must apply for, receive, and have on board the approved vessel(s) during the test, a Gear Test Authorization (GTA) from the NOAA Fisheries Southeast Regional Office Regional Administrator (RA). To receive a GTA, the applicant must submit the following documentation to the RA: (1) Name, address, and contact information of the applicant; (2) a list of vessels to be used during the sampling program, including the vessels' U.S. Coast Guard documentation numbers or state registration numbers; (3) name, address, and contact information of the vessel owners and/or vessel operators; (4) a brief statement of the purpose and goal of the activity for which the GTA is requested; (5) an operations plan (see Section C below) describing the scope, duration, dates, and location of the test, and methods that will be used to conduct the test; (6) an 8.5 inch x 11 inch (21.6 cm x 27.9 cm) diagram drawn to scale of the BRD candidate design; (7) an 8.5 inch x 11 inch (21.6 cm x 27.9 cm) diagram drawn to scale of the BRD in the shrimp trawl; and (8) a description of the mechanism by which the BRD candidate is expected to exclude finfish.

An applicant requesting an GTA to test an unapproved turtle excluder device (TED) as a BRD (including modifications to a certified TED where the modifications would make the configuration of the TED illegal) must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 223.207(e)(2). Applicants should contact the Protected Resources Division of NOAA Fisheries Southeast Regional Office for further information. The GTA applicant must include a copy of that authorization with the application.

Incomplete applications will be returned to the applicant along with a letter from the RA indicating what actions the applicant may take to make the application complete.

There is no cost to the applicant for the RA's administrative expenses such as reviewing applications, issuing GTA, evaluating test results, or certifying BRDs. However, all other costs associated with the actual testing activities are the responsibility of the applicant, or any associated sponsor.

If an application for a GTA is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies that resulted in the denial.

B. Allowable Activities

Issuance of a GTA to test a BRD candidate in the South Atlantic or Gulf of Mexico allows the applicant to remove or disable the existing certified BRD in one outboard net (to create a control net), and to place the BRD candidate in another outboard net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the test must have a certified BRD, unless these nets are specifically exempted in the GTA. All nets under tow during the test must have an approved TED unless operating under an authorization issued pursuant to 50 CFR 223.207(e)(2), whereby the test is being conducted on an experimental TED. The GTA, and experimental TED authorization if applicable, must be on board the vessel(s) while the test is being conducted. The term of the GTA will be 60 days; should circumstances require a longer test period, the applicant may request a 60-day extension.

C. Operations Plan

An operations plan should be submitted with the application describing a method to compare the catches of shrimp and fish in a control net (net without a BRD candidate installed) to the catches of the same species in an experimental net (a net configured identically to the control net but also equipped with the BRD candidate).

The applicant may choose to conduct a pre-certification test of a prototype BRD candidate. A pre-certification test would be conducted when the intent is to assess the preliminary effectiveness of a prototype BRD candidate under field conditions, and to make modifications to the prototype BRD candidate during the field test. For pre-certification testing, the operations plan must include only a description of the scope, duration, dates, and location of the test, along with a description of methods that will be used to conduct the test. No observer is required for a pre-certification test, but the applicant may choose to use an observer to maintain a written record of the test. The applicant will maintain a written record for both the control and experimental net during each tow. Mandatory data collection is limited to the weight of the shrimp catch and the weight of the total finfish catch in each test net during each tow. Although not required, the applicant may wish to incorporate some or all the certification test requirements listed below.

For a BRD candidate to be considered for certification, the operations plan must be more detailed and address the following topics:

- The primary assumption in assessing the bycatch reduction effectiveness of a BRD candidate during paired net tests is that the inclusion of the BRD candidate in the experimental net is the only factor causing a difference in catch from the control net. Therefore, the nets to be used in the tests must be calibrated (tuned) to minimize, to the extent practicable, any net/side bias in catch efficiency prior to beginning a test series, and tuned again after any gear modification or change. Additional information on tuning shrimp trawls to minimize bias is available from NOAA Fisheries, Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, MS 39567; phone 601–762–4591.
- A standard tow time for a proposed evaluation should be defined. Tow times must be representative of the tow times used by commercial shrimp trawlers. The applicant should indicate what alternatives will be considered should the proposed tow time need adjustment once the test begins.
- A minimum sample size of 30 successful tows using a specific BRD candidate design is required for the statistical analysis described in Section F. No alterations of the BRD candidate design are allowed during a specific test series. If the BRD candidate design is altered, a new test series must be started. If a gear change (*i.e.,* changing nets, doors, or rigging) is required, the nets should be tuned again before proceeding with further tests to complete the 30-tow series. Minor repairs to the gear (*e.g.,* sewing holes in the webbing; replacing a broken tickler chain with a new one of the same configuration) are not considered a “gear change.”
- For tests conducted on twin-rig vessels (one net on the port side and one net on the starboard side), biases that might result from the use of a try net should be minimized. Total fishing times for a try net must be a consistent percentage of the total tow time during each tow made in the test.
- To incorporate any potential net/side bias that remains after the tuning tows (*e.g.,* the effect of a try net), or to accommodate for bias that develops between the control and experimental nets during the test, the operations plan should outline a timetable ensuring that an equal number of successful tows are made with the BRD candidate employed in both the port and starboard nets.
- Mandatory data to be collected during a test includes: (1) Detailed vessel and gear specifications and (2) pertinent information concerning the location, duration, and catch from individual tows as set forth in forms available from the Science and Research Director (SRD) of the Southeast Fisheries Science Center. Applicants should contact the NOAA Fisheries, Galveston Laboratory, 4700 Avenue U, Galveston, TX 77551; phone 409–766–3500.
- Following each paired tow, the catches from the control and experimental nets must be examined separately. This requires that the catch from each net be kept separate from each other, as well as from the catch taken in other nets fished during that tow. Mandatory data collections include recording the weight of the total catch of each test net (control and experimental nets), and the weight of the total shrimp catch (*i.e.,* brown, white, pink, rock, or other shrimp by species) in each test net.
- To determine the total finfish catch in each test net, two procedures may be used under different conditions. If the total catch in a net does not fill one standard 1-bushel (ca. 10 gal or 30 L) polyethylene shrimp basket (ca. 70 lb [31.8 kg] of catch), but the tow is otherwise considered successful, data must be collected on the entire catch of the net, and recorded as a “select” sample, indicating that the values represent the total catch of the particular net. If the catch in a net exceeds 70 lb (31.8 kg), a well-mixed sample consisting of one standard 1-bushel [ca. 10 gal] (30 L) polyethylene shrimp basket must be taken from the total catch of the net. The total weight of the sample must be recorded, as well as the weight (and number as applicable) of finfish in aggregate.
- The forms available from the SRD include record keeping opportunities for additional species; collection of this information is optional for certification evaluation purposes. However, applicants testing BRD candidates are encouraged to collect additional information that may be pertinent to addressing bycatch issues in their respective regions. For example, in the western Gulf of Mexico applicants are especially encouraged to collect information on the bycatch of juvenile red snapper. Such data collection would follow the same procedure as sampling the total finfish catch.

The operations plan should address what the applicant will do should it become necessary to deviate from the primary procedures outlined in the operations plan. The plan should describe in detail what will be done to continue the test in a reasonable manner that is consistent with the primary procedures. For example, it may become necessary to alter the pre-selected tow time to adapt to local fishing conditions to successfully complete the test. Prior to issuing a GTA, the RA may consult with evaluation personnel to review the acceptability of these proposed alterations.

D. Observer Requirement

It is the responsibility of the applicant to ensure that a qualified observer is on board the vessel during the certification tests. Observers may include employees or individuals acting on behalf of NOAA Fisheries, state fishery management agencies, universities, or private industry. Any change in information or testing circumstances, such as replacement of the observer, must be reported to the RA within 30 days. Under 50 CFR 600.746, when any fishing vessel is required to carry an observer as part of a mandatory observer program under the Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*), the owner or operator of the vessel must comply with guidelines, regulations, and conditions to ensure their vessel is adequate and safe to carry an observer, and to allow normal observer functions to collect information as described in this Manual. A vessel owner is deemed to meet this requirement if the vessel displays one of the following: (1) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I, and 46 CFR, chapter I; (2) a certificate of compliance issued pursuant to 46 CFR 28.710; or (3) a valid certificate of inspection pursuant to 46 U.S.C. 3311. The observer has the right to check for major safety items, and if those items are absent or unserviceable, the observer may choose not to sail with the vessel until those deficiencies are corrected.

E. Reports

A report on the BRD candidate test results must be submitted by the applicant or associated sponsor before the RA will consider the BRD for certification. The report must contain a comprehensive description of the test, copies of all completed data forms used during the test, and photographs, drawings, and similar material describing the BRD. The report must include a description and explanation of any unanticipated deviations from the operations plan that occurred during the test. These deviations must be described in sufficient detail to allow evaluation and oversight personnel selected by NOAA Fisheries to determine if the tests were continued in a reasonable manner consistent with the approved operations plan procedures. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, such as special operational characteristics or fishing techniques, which enhance the BRD's performance, should be described and documented as appropriate.

F. Certification

The RA will determine whether the required reports and supporting materials are sufficient to evaluate the BRD candidate's effectiveness. The determination of sufficiency would be based on whether the applicant adhered to the prescribed testing procedure or provided adequate justification for any deviations from the procedure during the test. If the RA determines that the data are sufficient for evaluation, the BRD candidate will be evaluated to determine if it meets the bycatch reduction criterion. In making a decision, the RA may consult with evaluation and oversight personnel. Based on the data submitted for review, the RA will determine the effectiveness of the BRD candidate, using appropriate statistical procedures such as Bayesian analyses, to determine if the BRD candidate meets the following conditions:

(1) There is at least a 50-percent probability that the true reduction rate of the BRD candidate meets the bycatch reduction criterion (*i.e.,* the BRD candidate demonstrates a best point estimate [sample mean] that meets the certification criterion); and

(2) There is no more than a 10-percent probability that the true reduction rate of the BRD candidate is more than 5 percentage points less than the bycatch reduction criterion.

To be certified for use in the fishery, the BRD candidate will have to satisfy both conditions. The first condition ensures that the observed reduction rate of the BRD candidate has an acceptable level of certainty that it meets the bycatch reduction criterion. The second condition ensures the BRD candidate demonstrates a reasonable degree of certainty the observed reduction rate represents the true reduction rate of the BRD candidate. This determination ensures the operational use of the BRD candidate in the shrimp fishery will, on average, provide a level of bycatch reduction that meets the established bycatch reduction criterion. Interested parties may obtain details regarding the hypothesis testing procedure to be used by contacting NOAA Fisheries, Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, MS 39567; phone 228–762–4591. Following a favorable determination of the certification analysis, the RA will certify the BRD (with any appropriate conditions as indicated by test results) and publish the notice of certification in the **Federal Register**.

In addition, based on the data provided, if the BRD candidate does not meet the bycatch reduction certification criterion in accordance with the conditions outlined above, the RA may provisionally certify a BRD candidate based on the following condition:

There is at least a 50-percent probability that the true reduction rate of the BRD candidate is no more than 5 percentage points less than the bycatch reduction criterion (*i.e.,* the BRD candidate demonstrates a best point estimate [sample mean] within 5 percentage points of the certification criterion).

A provisional certification will be effective for 2 years from the date of publication of a notice in the **Federal Register** announcing this provisional certification. This time period will allow additional wide-scale industry evaluation of the BRD candidate, during which additional effort would be made to improve the efficiency of the BRD to meet the certification criterion.

III. BRDs Not Certified and Resubmission Procedures

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to either modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what information is lacking. The applicant must provide the additional information within 60 days from receipt of such notification. If the RA subsequently certifies the BRD, the RA will announce the certification in the **Federal Register**.

IV. Decertification of BRDs

The RA will decertify a BRD whenever NOAA Fisheries determines a BRD no longer satisfies the bycatch reduction criterion. Before determining whether to decertify a BRD, the RA will notify the appropriate Fishery Management Council(s) in writing, and the public will be provided an opportunity to comment on any proposed decertification through a publication of a proposed rule in the **Federal Register** with a comment period of not less than 15 days. The RA will consider any comments from the affected Council(s) and public, and if the RA elects to proceed with decertification of the BRD, the RA will publish a final rule in the **Federal Register**, which would remove the BRD from the certified list of BRDs.

V. Interactions With Sea Turtles

The following section is provided for informational purposes. Sea turtles are listed under the Endangered Species Act as either endangered or threatened. The following procedures apply to incidental take of sea turtles under 50 CFR 223.206(d)(1):

Any sea turtles taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are actively moving or determined to be dead (as described in paragraph (B)(4) below) must be released over the stern of the boat. In addition, they must be released only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive by:

(1) Placing the turtle on its bottom shell (plastron) so that the turtle is right side up and elevating its hindquarters at least 6 inches (15.2 cm) for a period of 4 to 24 hours. The amount of elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Periodically, rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternate to the other side. Gently touch the eye and pinch the tail (reflex test) periodically to see if there is a response.

(2) Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water. A water-soaked towel placed over the head, carapace, and flippers is the most effective method in keeping a turtle moist.

(3) Sea turtles that revive and become active must be released over the stern of the boat only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Sea turtles that fail to respond to the reflex test or fail to move within 4 hours (up to 24, if possible) must be returned to the water in the same manner as that for actively moving turtles.

(4) A turtle is determined to be dead if the muscles are stiff (rigor mortis) and/or the flesh has begun to rot; otherwise, the turtle is determined to be comatose or inactive and resuscitation attempts are necessary.

Any sea turtle so taken must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 19, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–23600 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 189
Thursday, September 29, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the public meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:00 a.m. to 12:00 p.m. CDT on Wednesday, October 12, 2016, at the Salon D, Des Moines Marriott Hotel, 700 Grand Avenue, Des Moines, IA 50309. The meeting will be streamed live on the Internet. The link to the global live stream is on BIFAD's home page: *http://www.usaid.gov/bifad.*

The central theme of this public meeting will be *Metrics for Accountability: Tracking Progress and Identifying Gaps in Development Investments.* Dr. Brady Deaton, BIFAD Chair, will preside over the public business meeting, which will begin promptly at 8:00 a.m. CDT with opening remarks. At this meeting, the Board will address old and new business and hear updates from USAID and the university community. The purpose of the session is to examine results frameworks, assumptions, evidence, and M&E systems as a basis for tracking progress and learning, and adjusting investments towards achieving the 2030 development goals.

Starting at 8:45 a.m., Beth Dunford, Deputy Coordinator for Development for Feed the Future and Assistant to the Administrator, USAID Bureau for Food Security, will provide an update on Feed the Future and the recently released report, A Food-Secure 2030. Then Emily Hogue, Team Lead for Monitoring Evaluation and Learning Team Lead, USAID Bureau for Food Security will present on the Feed the Future accountability framework, progress, and learning.

The panel respondents will begin, following a short break, at 10:30 a.m. CDT. Presenters on this panel are Pietro Gennari, Director, Statistics Division, UN Food and Agriculture Organization, Richard Caldwell, Senior Program Officer, Monitoring Learning and Evaluation, Bill and Melinda Gates Foundation, Paul Winters, Director of the Research and Impact Assessment Division, International Fund for Agricultural Development, and David Ameyaw, Director, Monitoring and Evaluation, Alliance for a Green Revolution in Africa.

At 11:30 a.m. CDT, Chairman Deaton will moderate a half-hour public comment period. At 12:00 p.m., Dr. Deaton will make closing remarks and adjourn the public meeting.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Clara Cohen, Designated Federal Officer for BIFAD in the Bureau for Food Security at USAID. Interested persons may write to her in care of the U.S. Agency for International Development, Ronald Reagan Building, Bureau for Food Security, 1300 Pennsylvania Avenue NW., Washington, DC 20523–2110 or telephone her at (202) 712–0119.

Karen Duca,

Senior Policy Advisor, Division for Human and Institutional Capacity Developmentm (HICD)-BIFAD, Office of Agricultural Research and Policy, Bureau for Food Security.

[FR Doc. 2016–23648 Filed 9–27–16; 4:15 pm]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to TREASURE8 LLC of SAN FRANCISCO, CALIFORNIA, an exclusive license to U.S. Patent Application Serial No. 14/244,448, entitled "NOVEL INFRARED DRY BLANCHING, INFRARED BLANCHING, AND INFRARED DRYING TECHNOLOGIES FOR FOOD PROCESSING," filed on April 3, 2014.

DATES: Comments must be received on or before October 31, 2016.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: Mojdeh Bahar of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in THIS INVENTION are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license THIS INVENTION as TREASURE8 LLC of SAN FRANCISCO, CALIFORNIA, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2016–23534 Filed 9–28–16; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Gallatin Resource Advisory Committee (RAC) will meet in Bozeman, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to

the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/detail/custergallatin/workingtogether/?cid=stelprdb5304491.*

DATES: The meeting will be held on October 13, 2016, from 12:30 p.m.–4:30 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Custer Gallatin Supervisor's Office, 2nd Floor Conference Room, 10 East Babcock Street, Bozeman, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Custer Gallatin National Forest Supervisor's Office. Please call ahead at 406–587–6784 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Karen Tuscano, RAC Coordinator by phone at 406–587–6784, or via email at *ktuscano@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and recommend 2016 project proposals to the Designated Federal Officer.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by October 1, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Karen Tuscano, RAC Coordinator, Custer Gallatin National Forest Supervisor's Office, 10 East Babcock Street, Bozeman, Montana 59715; or by email to *ktuscano@fs.fed.us,* or via facsimile to 406–587–6758.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 23, 2016.

Mary C. Erickson,

Forest Supervisor, Custer Gallatin National Forest.

[FR Doc. 2016–23529 Filed 9–28–16; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kentucky Advisory Committee for a Meeting To Discuss Potential Project Proposals

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Kentucky Advisory Committee will hold a meeting on Friday October 21, 2016, at 12 p.m. EST for the purpose of discussing potential projects.

DATES: The meeting will be held on Friday October 21, 2016 12:00 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 888–602–6363, conference ID: 6951138.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton at *jhinton@usccr.gov* or 404–562–7006

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–602–6363, conference ID: 6951138. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by October 19, 2016. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Kentucky Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda

Welcome and Call to Order
  Dr. Griffin, Kentucky SAC Chairman
  Jeff Hinton, Regional Director
Regional Update—Jeff Hinton
  Member Discussion/Open Comment/Staff/Advisory Committee—Dr. Griffin, SAC Chairman
Public Participation
Adjournment

Dated: September 26, 2016.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2016–23551 Filed 9–28–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[9/15/2016 through 9/23/2016]

Firm name	Firm address	Date accepted for investigation	Product(s)
Winco Window Company, Inc	6200 Maple Avenue, Saint Louis, MO 63130.	9/16/2016	The firm produces architectural and heavy aluminum windows in standard size and design.
Lightning Tool and Manufacturing, Inc.	4642 Selway Ave., Post Falls, ID 83854.	9/22/2016	The firm manufactures injection molding, tooling and CNC machining.
Streamline Industries, LLC	7513 East Highway 90, Jeanrette, LA 70544.	9/22/2016	This firm is a manufacturer of precision tools for the oil industry.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2016–23474 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–867]

Welded Stainless Pressure Pipe From India: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") determines that welded stainless pressure pipe ("WSPP") from India is being, or is likely to be, sold in the United States at less than fair value ("LTFV"). The period of investigation ("POI") is July 1, 2014, through June 30, 2015. The final estimated weighted-average dumping margins of sales at LTFV are listed below in the "Final Determination" section of this notice.

DATES: Effective September 29, 2016.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3965, or (202) 482–7814, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2016, the Department published the *Preliminary Determination* of this LTFV investigation and invited parties to comment.[1] As provided in section 782(i) of the Tariff Act of 1930, as amended ("the Act"), in June and July 2016, the Department verified the sales and cost data reported by (1) Steamline Industries Limited ("Steamline") and (2) Sunrise Stainless Pvt. Ltd. ("Sunrise") (including its affiliate Sun Mark Stainless Pvt. Ltd. ("Sun Mark") ("collectively, "Sunrise Group")), the two mandatory respondents in this investigation. In August 2016, Petitioners,[2] Sunrise Group and Steamline submitted case briefs and rebuttal briefs. For a complete discussion of the events that occurred since the *Preliminary Determination, see* the Issues and Decision Memorandum.[3]

Scope of the Investigation

The product covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter, from India. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix II to this notice. The Department did not receive comments regarding the scope of this investigation.

Final Determination of Affiliation and Collapsing

We preliminarily determined to collapse Sunrise with its affiliate Sun Mark and to treat these two companies as a single entity.[4] No party raised this issue subsequent to the *Preliminary Determination* or provided comment in their case or rebuttal briefs. Accordingly, we continue to find Sunrise and Sun Mark are affiliated pursuant to section 771(33)(F) of the Act and should be collapsed together and treated as a single entity, pursuant to the criteria laid out in 19 CFR 351.401(f).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference and hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

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[1] *See Welded Stainless Pressure Pipe From India: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 28824 (May 10, 2016) ("*Preliminary Determination*").

[2] Petitioners consist of Bristol Metals, LLC, Felker Brothers Corporation, Outokumpu Stainless Pipe, Inc., and Marcegaglia USA Inc. (collectively, "Petitioners").

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Less-Than-Fair-Value Investigation of Welded Stainless Pressure Pipe from India," dated concurrently with this notice ("Issues and Decision Memorandum").

[4] *See Preliminary Determination* and accompanying Memorandum to Brendan Quinn, Acting Director, Office III, "Antidumping Duty Investigation on Welded Stainless Pressure Pipe from India: Preliminary Affiliation and Collapsing Memorandum for Sunrise Stainless Private Limited," dated May 10, 2016.

[5] *See Preliminary Determination,* and accompanying Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Welded Stainless Pressure Pipe from India," dated May 3, 2016, at 3.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available with regard to sales of defective or sub-prime merchandise in the home market by Steamline.[6] Because Steamline failed to act to the best of its ability to respond to the Department's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[7] For further information, *see* the accompanying Issues and Decision Memorandum at Comment 1.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to the margin calculations for both respondents since the *Preliminary Determination,* including a revision of our comparisons of normal value ("NV") to U.S. price on a theoretical, instead of actual, weight basis. For a discussion of all of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding any rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. Because we calculated a *de minimis* weighted-average dumping margin for Sunrise Group, we have based the all-others rate on the estimated weighted-average dumping margin calculated for Steamline, the other mandatory respondent in this investigation.

Final Determination

The Department determines that the final estimated weighted-average dumping margins are as follows:

Exporter or producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (percent)
Steamline Industries Ltd	12.66	10.17
Sunrise Stainless Pvt. Ltd. and Sun Mark Stainless Pvt. Ltd. (collectively, "Sunrise Group")	0.00	0.00
All Others	12.66	8.35

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will direct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all appropriate entries of WSPP from India, as described in the "Scope of the Investigation" section, which are entered, or withdrawn from warehouse, for consumption on or after May 10, 2016, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.* Because Sunrise Group, which includes Sunrise Stainless Pvt. Ltd. and Sun Mark Stainless Pvt. Ltd., has an estimated weighted-average final dumping margin of zero, we are directing CBP to terminate suspension of liquidation of entries of WSPP produced and exported by this entity. In addition, subject merchandise produced and exported by Sunrise Group will be excluded from the antidumping duty order, if issued.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds the export price ("EP") or constructed export price ("CEP"), as indicated in the chart above. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the NV exceeds the U.S. price, less the amount of the countervailing duty determined to constitute any export subsidies. Therefore, in the event that a countervailing duty order is issued and suspension of liquidation is resumed in the companion countervailing duty investigation on WSPP from India, the Department will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate chart, above.[8] Until such suspension of liquidation is resumed in the companion countervailing duty investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the weighted-average margin column in the rate chart, above.

International Trade Commission ("ITC") Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in part, section 735(b)(2) of the Act requires that the ITC make its final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of WSPP from India no later than 45 days after our final determination. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

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[6] *See* Issues and Decision Memorandum at Comment 1.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* Memorandum to the File, "Calculation Memorandum for Export Subsidy Offset to Cash Deposit Rates," dated concurrently with this notice.

Notification Regarding Administrative Protective Orders ("APO")

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notice to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210.

Dated: September 22, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the Preliminary Determination
V. List of Comments
VI. Discussion of the Issues
  Comment 1: Whether Certain Home Market Sales Constitute Sub-Prime Merchandise
  Comment 2: The Use of Theoretical or Actual Weight
  Comment 3: Calculation of Direct Material (Coil) Cost
  Comment 4: Steamline's Home Market Sales to an Affiliated Party
  Comment 5: Steamline's Data Error for One U.S. Sale
  Comment 6: Steamline's Inventory Carrying Costs ("ICC")
  Comment 7: Steamline's Packing Material Usage Rate
  Comment 8: Steamline's Minor Corrections to Response Presented at Verification
  Comment 9: Steamline's Arm's-Length Prices From Affiliated Parties for Direct Materials
  Comment 10: Steamline's Allocation of Conversion Costs
  Comment 11: Steamline's Director's Remuneration
  Comment 12: Steamline's Cost Reconciliation and Scrap
  Comment 13: Conversion of Sunrise's Warranty Expenses
  Comment 14: Treatment of Indirect Selling Expenses for Sunrise's CEP Sales
  Comment 15: Use of Net Quantity in the Calculation of Sunrise's U.S. Sales
VII. Recommendation

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. References to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials ("ASTM") A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope of the investigation are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States ("HTSUS"). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2016–23577 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board) will hold an open meeting via teleconference on Thursday, October 13, 2016. The Board was re-chartered in August 2015 and advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry. The purpose of the meeting is for Board members to deliberate on proposed recommendations related to travel security and the customer experience, visa facilitation, and the collection of international visitation data to the United States. The final agenda will be posted on the Department of Commerce Web site for the Board at *http://trade.gov/ttab,* at least one week in advance of the meeting.

DATES: Thursday, October 13, 2016, 2:00 p.m.–4:00 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on October 6, 2016.

ADDRESSES: The meeting will be held by conference call. The call-in number and passcode will be provided by email to registrants. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: U.S. Travel and Tourism Advisory Board, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, *OACIO@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Li Zhou, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *OACIO@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the DATES caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on Thursday, October 6, 2016, for inclusion in the meeting records and for circulation to the members of the Travel and Tourism Advisory Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Li Zhou at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Thursday, October 6, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered on the call. Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: September 26, 2016.

Li Zhou,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2016–23567 Filed 9–27–16; 11:15 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Promotion Coordinating Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice and request for nominations from state, local, and municipal governments to the trade promotion coordinating committee state and federal export promotion coordination working group.

SUMMARY: The Secretary of Commerce, as Chair of the Trade Promotion Coordinating Committee (TPCC), announces the establishment of the State and Federal Export Promotion Coordination Working Group as a subcommittee of the TPCC. The Trade Facilitation and Trade Enforcement Act of 2015 (the Act) requires the President to establish this Working Group as a subcommittee of the TPCC to identify issues related to the coordination of Federal resources relating to export promotion and export financing with such resources provided by State and local governments.

DATES: Nominations for the Working Group must be received electronically on or before 5:00 p.m. (ET) on October 24, 2016.

FOR FURTHER INFORMATION CONTACT: Patrick Kirwan, Director, Trade Promotion Coordinating Committee Secretariat, Room 31027, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–5455, email: *StateandLocal@trade.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Establishment of Working Group
III. Member and Meeting Information
IV. Request for Nominations

I. Background

The TPCC is an interagency group mandated by Congress (15 U.S.C. 4727) and chaired by the Secretary of Commerce. It was established to provide a unifying framework to coordinate the export promotion and financing activities of the U.S. Government, as well as to develop a government wide strategic plan for carrying out Federal export promotion and export financing programs. The United States does not have a single agency or government department responsible for creating a unified approach to governing export promotion; instead, 20 different departments and agencies approach exports with differing mandates. The TPCC serves as the coordinating body designed to ensure that these agencies and departments act together and work to implement the Administration's export promotion agenda, through periodic principals meetings and more frequent working group meetings on a variety of subjects.

The TPCC statutory mandate includes:

(1) Coordinate the development of the trade promotion policies and programs of the United States Government;

(2) provide a central source of information for the business community on Federal export promotion and export financing programs;

(3) coordinate official trade promotion efforts to ensure better delivery of services to United States businesses, including: (a) Information and counseling on United States export promotion and export financing programs and opportunities in foreign markets; (b) representation of United States business interests abroad; and (c) assistance with foreign business contacts and projects;

(4) prevent unnecessary duplication in Federal export promotion and export financing activities; and

(5) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations to the President based on its assessment.

In carrying out that mandate, the TPCC develops and implements an annual government wide strategic plan for Federal trade promotion efforts. The annual strategic plan establishes a set of priorities for Federal activities in support of U.S. exports; explains the rationale for the priorities; reviews current Federal programs designed to promote U.S. exports in light of those priorities; identifies areas of overlap and duplication and proposes means of eliminating them; proposes an annual unified Federal trade promotion budget to the President; reviews efforts by the States to promote exports and proposes means of developing cooperation between State and Federal efforts; and reflects certain recommendations regarding the promotion of travel and tourism exports as appropriate.

For additional information, including the list of TPCC member departments and agencies, please see *https://www.export.gov/article?id=What-is-the-TPCC.*

II. Establishment of Working Group

Section 504(a) of the Trade Facilitation and Trade Enforcement Act of 2015 ("Act"), amended the Export Enhancement Act of 1988 to add a new section 2313A. Section 2313A notes that U.S. policy is to promote exports as an opportunity for small businesses, and in exercising their powers and functions to advance that policy, all Federal agencies shall work constructively with State and local agencies engaged in export promotion and export financing activities. Section 2313A directs the President to establish the State and Federal Export Promotion Coordination Working Group ("Working Group") under the TPCC with the purposes to:

(1) Identify issues related to the coordination of Federal resources relating to export promotion and export financing with such resources provided by State and local governments;

(2) identify ways to improve coordination with respect to export promotion and export financing activities through the TPCC annual strategic plan;

(3) develop a strategy for improving coordination of Federal and State resources relating to export promotion and export financing, including methods to eliminate duplication of effort and overlapping functions; and

(4) develop a strategic plan for considering and implementing the suggestions of the Working Group as part of the TPCC annual strategic plan.

The President issued Executive Order No. 13733, Delegation of Certain Authorities and Assignment of Certain Functions under the Trade Facilitation and Trade Enforcement Act of 2015, on July 22, 2016, assigning to the Secretary of Commerce the function under Section 2313A(b) of establishing the Working Group. In the Executive Order, the President further directed that, in carrying out its functions, the State and Federal Export Promotion Coordination Working Group shall also coordinate with local and municipal governments representing regionally diverse areas.

III. Member and Meeting Information

The Secretary of Commerce shall select the members of the Working Group, who shall include representatives from State trade agencies and local and municipal governments representing regionally diverse areas and representatives of the federal departments and agencies that are represented on the TPCC. Representatives from State trade agencies must be: (1) Elected officers of a State, or (2) State employees designated by an elected State officer to represent the State trade agency with authority to act on his or her behalf. Representatives from local and municipal governments must be: (1) Elected officers or (2) local or municipal employees designated by an elected officer to represent the local and municipal government with authority to act on his or her behalf.

Because the Working Group will be an intergovernmental committee composed wholly of full-time or part-time Federal Government officers or employees, State government elected officers or their designees, and local and municipal elected officials or their designees, all of whom will be acting in their official capacities solely to exchange views, information, or advice relating to the management and implementation of Federal programs established by statute that explicitly share intergovernmental responsibilities and administration, the Working Group is not covered by the Federal Advisory Committee Act, 5 U.S.C. App.

Members appointed as representatives from State trade agencies and local and municipal governments will not receive any Federal compensation for their services and will not be reimbursed for travel expenses. Meetings will be held in person and/or via teleconference. The TPCC will make every effort to use technology to allow for remote participation in meetings, but there will be times when in-person meetings will be necessary. The TPCC will strive to provide members of the Working Group notice of meetings at least 15 calendar days in advance.

IV. Request for Nominations

The TPCC Secretariat seeks nominations for representatives from State trade agencies and local and municipal governments to the Working Group. For purposes of this notice, a "State trade agency" is the lead official governmental trade promotion agency for a State, and includes separately established trade agencies as well as trade offices within a State agency or department or the Office of the Governor. A "local or municipal government" includes, but is not limited to, town, city, and county governments. The TPCC seeks representation of regionally diverse areas.

Qualified individuals may self-nominate or be nominated by a senior level State government or local or municipal government official. To be considered, nominators should submit the following information:

(1) Name, title, and relevant contact information (including phone and email address) for the nominee, the state trade agency that the nominee would represent or the local or municipal government the nominee would represent;

(2) A resume or short biography of the nominee, including professional and academic credentials.

(3) A statement of the nominee's role in state, local, or municipal export promotion activities.

Should more information be needed, TPCC staff will contact the nominee. If nominees are not an elected official, a letter may be requested from an elected official that indicates the nominee has been designated to participate in the Working Group on his or her behalf.

Nominators should submit the above information via electronic transmission to *StateandLocal@trade.gov*. The submission must be received on or before 5:00 p.m. (ET) on October 24, 2016.

Dated: September 23, 2016.

Patrick Kirwan,

Director, Trade Promotion Coordinating Committee Secretariat.

[FR Doc. 2016–23501 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–868]

Countervailing Duty Investigation of Welded Stainless Pressure Pipe From India: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") determines that countervailable subsidies are being provided to producers and exporters of welded stainless pressure pipe from India. For information on the subsidy rates, see the "Final Determination" section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: Effective September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Amanda Mallott at 202–482–6430, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on March 11, 2016,[1] and issued a Post-Preliminary Memorandum on August 23, 2016.[2] A summary of the events that occurred since the *Preliminary Determination*, and a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[3] The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

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[1] *See Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 81 FR 12871 (March 11, 2016) (*"Preliminary Determination"*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Post-Preliminary Analysis in the Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India," dated August 23, 2016 ("Post-Preliminary Memorandum").

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India," dated concurrently with, and hereby incorporated by reference and adopted by, this notice ("Issues and Decision Memorandum").

Electronic Service System ("ACCESS"). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter, from India. For a complete description of the scope of this investigation, *see* Appendix II. The Department did not receive comments regarding the scope of this investigation.

Methodology

The Department is conducting this countervailing duty ("CVD") investigation in accordance with section 701 of the Tariff Act of 1930, as amended ("the Act"). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying our conclusions, *see* the Issues and Decision Memorandum.[5]

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available with regard to specificity and financial contribution of the electricity duty rebate provided to Steamline Industries Limited ("Steamline"), as well as an adjustment to Steamline's reported total sales value and total export sales value.[6] Because neither Steamline nor the Government of India acted to the best of their ability to respond to the Department's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[7] For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to the subsidy program rate calculations since the *Preliminary Determination.* For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. In accordance with section 705(c)(5)(A) of the Act, for companies not individually examined, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the companies that the Department individually investigated by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act. Accordingly, in these final results, we have calculated the "all-others" rate by weight-averaging the calculated subsidy rates of the two individually investigated respondents, using the respondent's publicly-ranged sales data for exports of subject merchandise to the United States.[8]

Exporter/producer	Subsidy rate (percent)
Steamline Industries Limited	3.13
Sunrise Stainless Private Limited, Sun Mark Stainless Pvt. Ltd., and Shah Foils Ltd. (collectively, "Sunrise Group")	6.22
All-Others	4.65

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection ("CBP") to suspend liquidation of entries of merchandise under consideration from India that were entered or withdrawn from warehouse, for consumption, on or after March 11, 2016, which is the publication date in the **Federal Register** of the *Preliminary Determination.* In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after July 9, 2016 but to continue the suspension of liquidation of all entries of subject merchandise from March 11, 2016 through July 8, 2016.

If the U.S. International Trade Commission ("ITC") issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

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[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See also Preliminary Determination* and accompanying Preliminary Decision Memorandum; and Post-Preliminary Memorandum.

[6] *See* Issues and Decision Memorandum at Comments 5 and 6.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* Memorandum to the File, "Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India: Final Determination Margin Calculation for All-Others," dated concurrently with this memorandum.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 22, 2016.

Paul Piquado,

Assistant Secretary, for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. List of Issues
V. Subsidies Valuation
VI. Use of Facts Otherwise Available and Adverse Inferences
VII. Analysis of Programs
VIII. Calculation of the All-Others Rate
IX. Analysis of Comments
  Comment 1: Whether the Advance Authorization Program ("AAP") Provides a Countervailable Subsidy
  Comment 2: Whether the Duty Drawback ("DDB") Program Provides a Countervailable Subsidy
  Comment 3: Whether the Export Promotion of Capital Goods Scheme ("EPCGS") Provides a Countervailable Subsidy and Whether the Department Should Use a Different Denominator for the Benefit Calculation
  Comment 4: Whether the Department Should Investigate and Countervail Marketable Certificates Purchased From Third Parties
  Comment 5: Whether Steamline's Total Sales and Total Export Sales Figures Are Overstated
  Comment 6: Whether the Electricity Duty Exemption Provided by the Uttar Gujarat Vij Company Limited Is a Countervailable Subsidy Program
  Comment 7: Whether the Department Should Countervail Preferential Water Rates Provided by the Gujarat Industrial Development Corporation ("GIDC") Under the GIDC Water Supply Regulation of 1991
  Comment 8: Whether the Provision of Land for Less Than Adequate Remuneration ("LTAR") Provides a Countervailable Subsidy Recommendation

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. References to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials ("ASTM") A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope of the investigation are: (1) Welded stainless mechanical tubing, meeting ASTM A–554 or comparable omestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States ("HTSUS"). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

[FR Doc. 2016–23575 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE908

Marine Mammals; File No. 20599

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Southwest Fisheries Science Center, Antarctic Ecosystem Research Division, La Jolla, California, (Responsible Party: George Watters, Ph.D., Director), has applied in due form for a permit to conduct research on marine mammals in the Antarctic.

DATES: Written, telefaxed, or email comments must be received on or before October 31, 2016.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20599 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a five-year permit to take Antarctic fur seals

(*Arctocephalus gazella*), southern elephant seals (*Mirounga leonina*), crabeater seals (*Lobodon carcinophagus*), leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossii*), and Weddell seals (*Leptonychotes weddellii*) for life history studies and census surveys for abundance and distribution of pinnipeds in the South Shetland Islands, Antarctica, as part of a long-term ecosystem monitoring program established in 1986. The applicant also requests permission to import tissue samples collected from any animals captured and from salvaged carcasses of any species of pinniped or cetacean found in the study area.

The applicant requests annual capture of: 200 Antarctic fur seal adults and juveniles; 600 Antarctic fur seal pups; 50 leopard seal adults and juveniles; 50 southern elephant seal adults and juveniles; 100 southern elephant seal pups; 30 Weddell seal adults and juveniles; and 20 Weddell seal pups. Research on captured animals would include tissue sampling, attachment of scientific instruments, application of marks (flipper tags, hair bleach or dye), morphometric measurement, tooth extraction, and stomach content sampling. An additional 23,000 Antarctic fur seals, 1,100 southern elephant seals, 100 crabeater seals, 100 leopard seals, 200 Weddell seals, and 5 Ross seals would be taken annually by harassment during aerial and ground surveys, including behavioral observations and photo-identification. The applicant has requested an annual incidental mortality allowance of: 3 Antarctic fur seal adults or juveniles; 5 Antarctic fur seal pups; 2 leopard seal adults or juveniles; 2 southern elephant seal adults or juveniles; 2 southern elephant seal pups; 2 Weddell seal adults or juveniles; and 2 Weddell seal pups.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 26, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–23532 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE889

Nominations to the Marine Mammal Scientific Review Groups

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for nominations.

SUMMARY: As required by the Marine Mammal Protection Act (MMPA), the Secretary of Commerce established three independent regional scientific review groups (SRGs) to provide advice on a range of marine mammal science and management issues. NMFS has conducted a membership review of the Alaska, Atlantic, and Pacific SRGs, and is soliciting nominations for new members to fill vacancies and gaps in expertise. Nominees should possess demonstrable expertise in the areas specified in this notice, be able to conduct thorough scientific reviews of marine mammal science, and be able to fulfill the necessary time commitments associated with a thorough review of documents and to attend one annual meeting.

DATES: Nominations must be received by October 31, 2016.

ADDRESSES: Nominations can be emailed to *Shannon.Bettridge@noaa.gov,* or mailed to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: SRGs.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov.* Information about the SRGs is available at *http://www.nmfs.noaa.gov/pr/sars/group.htm.*

SUPPLEMENTARY INFORMATION: Section 117(d) of the MMPA (16 U.S.C. 1386(d)) directs the Secretary of Commerce to establish three independent regional SRGs to advise the Secretary (authority delegated to NMFS). The Alaska SRG advises on marine mammals that occur in waters off Alaska that are under the jurisdiction of the United States. The Pacific SRG advises on marine mammals that occur in waters off the U.S. West Coast, Hawaiian Islands, and the U.S. Territories in the Central and Western Pacific that are under the jurisdiction of the United States. The Atlantic SRG advises on marine mammals that occur in waters off the Atlantic coast, Gulf of Mexico, and U.S. Territories in the Caribbean that are under the jurisdiction of the United States.

SRGs members are highly qualified individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b) of the MMPA. The SRGs provide expert reviews of draft marine mammal stock assessment reports and other information related to the matters identified in section 117(d)(1) of the MMPA, including:

A. Population estimates and the population status and trends of marine mammal stocks;

B. Uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

C. Uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

D. Research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

E. The actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

F. Any other issue which the Secretary or the groups consider appropriate.

SRG members collectively serve as independent advisors to NMFS and the U.S. Fish and Wildlife Service and provide their expert review and recommendations through participation in the SRG. Members attend annual meetings and undertake activities as independent persons providing expertise in their subject areas. Members are not appointed as representatives of professional organizations or particular stakeholder groups, including government entities, and are not permitted to represent or advocate for those organizations, groups or entities during SRG meetings, discussions and deliberations.

NMFS annually reviews the expertise available on the SRG and identify gaps in the expertise that is needed to provide advice pursuant to section 117(d) of the MMPA. In conducting the reviews, NMFS will attempt to achieve, to the maximum extent practicable, a balanced representation of viewpoints among the individuals on each SRG.

For the Atlantic SRG (including waters off the Atlantic coast, Gulf of Mexico, and U.S. Territories in the Caribbean), NMFS seeks individuals with expertise in one or more of the following areas: Ecological statistics, with emphasis in line-transect theory, abundance estimation, trend analysis, and/or marine mammal bycatch estimation; marine mammal health; fisheries gear and technologies; and pinnipeds.

For the Pacific SRG (including waters off the Pacific coast, Hawaiian Islands and the U.S. Territories in the Central and Western Pacific), NMFS seeks individuals with expertise in one or more of the following areas: Bycatch estimation; quantitative ecology, population dynamics, modeling, and statistics; fishing gear/techniques, particularly for Hawaii and Pacific Islands fisheries; genetics and/or other methods of identifying marine mammal population structure; passive acoustics; abundance estimation, especially distance sampling and mark-recapture methods; and southern sea otters.

For the Alaska SRG, NMFS seeks individuals with expertise in one or more of the following areas: Genetics/population structure; quantitative ecology, modeling, and population dynamics; acoustics; fishing gear and practices; anthropogenic impacts; and ice-associated or Arctic species.

Nominations for new members should be sent to (see **ADDRESSES**) and must be received by October 31, 2016. Nominations should be accompanied by the individual's curriculum vitae and detailed information regarding how the recommended person meets the minimum selection criteria for SRG members (see below), and how the recommended person would bring needed expertise to the group. Self-nominations are acceptable. The following contact information should accompany each nomination: Nominee's name, address, telephone number, and email address.

When reviewing nominations, NMFS will consider the following criteria:

(1) Ability to make time available for the purposes of the SRG;

(2) Knowledge of the species (or closely related species) of marine mammals in the SRG's region;

(3) Scientific or technical achievement in a relevant discipline, particularly the areas of expertise identified above, to be considered an expert peer reviewer for the topic;

(4) Demonstrated experience working effectively on teams;

(5) Expertise relevant to current and expected needs of the SRG, in particular, expertise required to provide adequate review and knowledgeable feedback on current or developing stock assessment issues, techniques, etc. In practice, this means that each member should have expertise in more than one topic as the species and scientific issues discussed in SRG meetings are diverse; and

(6) No conflict of interest with respect to their duties as a member of the SRG.

An SRG member cannot be a registered Federal lobbyist. Membership is voluntary, and except for reimbursable travel and related expenses, service is without pay. The term of service for SRG members is three years and members may serve up to three consecutive terms if reappointed.

Dated: September 26, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–23540 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE912

Fisheries of the U.S. Gulf of Mexico; Southeast Data, Assessment and Review (SEDAR); U.S. Gulf of Mexico Data-Limited Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The SEDAR 49 assessment of the U.S. Gulf of Mexico Data-Limited Species will consist of a Data Workshop; a series of Assessment Webinars; and a Review Workshop, to view the agenda.

DATES: The SEDAR 49 Review Workshop will begin at 9 a.m. on Tuesday, November 1, 2016, and end at 6 p.m. on Thursday, November 3, 2016, to view the agenda see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The SEDAR 49 Review Workshop will be held at the Sonesta Coconut Grove, 2889 McFarlane Road, Miami, FL 33133, 305–529–2828 or 1–800–766–3782.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405 or on their Web site, at *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator; phone 843–571–4366 or toll free 866–SAFMC–10; FAX 843–769–4520; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION:

Agenda

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Review Workshop agenda are as follows:

1. The Review Panel participants will review the stock assessment reports to determine if they are scientifically sound.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 26, 2016.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–23520 Filed 9–28–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Status of New Uniform Residential Loan Application and Collection of Expanded Home Mortgage Disclosure Act Information About Ethnicity and Race in 2017

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Bureau Official Approval.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing a notice pursuant to the Equal Credit Opportunity Act concerning the new Uniform Residential Loan Application and the collection of expanded Home Mortgage Disclosure Act information about ethnicity and race in 2017.

DATES: This official approval is issued September 23, 2016. Entities may rely on part III of this Bureau official approval beginning January 1, 2017.

FOR FURTHER INFORMATION CONTACT: James Wylie, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at 202–435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Consumer Financial Protection (Bureau) administers the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691, *et seq.* and its implementing regulation, Regulation B, 12 CFR part 1002. Section 706(e) of ECOA, as amended, provides that no provision of ECOA imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau duly authorized by the Bureau to issue such an interpretation or approval. This notice (Bureau official approval) constitutes such an interpretation or approval, and therefore section 706(e) protects a creditor from civil liability under ECOA for any act done or omitted in good faith in conformity with this notice.

II. New Uniform Residential Loan Application Status Under Regulation B

The Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association (collectively, the Enterprises), under the conservatorship of the Federal Housing Finance Agency (FHFA), issued a revised and redesigned Uniform Residential Loan Application on August 23, 2016, included as an attachment to this notice (2016 URLA).[1] This issuance was part of the effort of these entities to update the Uniform Loan Application Dataset (ULAD) in conjunction with the 2016 URLA. Bureau staff has reviewed the 2016 URLA in accordance with the request by FHFA and the Enterprises for a Bureau official approval of the 2016 URLA under ECOA and Regulation B.

A. Background

A version of the URLA dated January 2004 is included in appendix B to Regulation B as a model form. Appendix B provides that the use of model forms included in appendix B is optional under Regulation B but that, if a creditor uses an appropriate appendix B model form, or modifies a form in accordance with instructions provided in appendix B, that creditor shall be deemed to be acting in compliance with § 1002.5(b) through (d). Regulation B comment appendix B–1 provides that a previous version of the URLA, dated October 1992, may be used by creditors without violating Regulation B.

This Bureau official approval is being issued separately from, and without amending, the official interpretations to Regulation B contained in Supplement I to Regulation B. The Bureau will consider whether to address the treatment of outdated versions of the URLA in appendix B and Supplement I to Regulation B at a later date.

B. Bureau Official Approval

Regulation B § 1002.5(b) provides rules concerning requests for information about race, color, religion, national origin, or sex. Section 1002.5(c) provides rules concerning requests for information about a spouse or former spouse. Section 1002.5(d) provides rules concerning requests for information regarding marital status; income from alimony, child support, or separate maintenance; and childbearing or childrearing. Bureau staff has determined that the relevant language in the 2016 URLA is in compliance with these regulatory provisions. A creditor's use of the 2016 URLA is not required under Regulation B. However, a creditor that uses the 2016 URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d). The issuance of this Bureau official approval has been duly authorized by the Director of the Bureau and provides the protection afforded under section 706(e) of ECOA.

III. Collection of Expanded Home Mortgage Disclosure Act Information About Ethnicity and Race in 2017

This part of this Bureau official approval addresses collection of information concerning the ethnicity and race of applicants in conformity with Regulation B from January 1, 2017, through December 31, 2017.

A. Background

With some exceptions, Regulation B § 1002.5(b) generally prohibits a creditor from inquiring about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction. Regulation B § 1002.5(a)(2) provides an exception to that prohibition for information, including information about ethnicity and race, for monitoring purposes that creditors are required to request for certain dwelling-secured loans under § 1002.13, and for information required by a regulation, order, or agreement issued by or entered into with a court or an enforcement agency to monitor or enforce compliance with ECOA, Regulation B, or other Federal or State statutes or regulations, including Regulation C.[2] Under Regulation C § 1003.4(a)(10), lenders covered by Regulation C are required to collect, record, and report certain information, including information regarding ethnicity and race, that would be otherwise prohibited.

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[1] *See* 2016 URLA—Borrower Information, 2016 URLA—Additional Borrower, 2016 URLA—Unmarried Addendum, 2016 URLA—Lender Loan Information, 2016 URLA—Continuation Sheet, and 2016 URLA Demographic Information Addendum included as attachments in part V of this notice.

Regulation C, as amended by the final rule published in the **Federal Register** at 80 FR 66127 on October 28, 2015 (2015 HMDA final rule), will require financial institutions to permit applicants to self-identify using disaggregated ethnic and racial categories beginning January 1, 2018.[3] However, before that date, such inquiries will not be required by Regulation C or allowed under Regulation B § 1002.5(a)(2), and therefore creditors would be prohibited by Regulation B § 1002.5(b) from requesting applicants to self-identify using the disaggregated ethnic and racial categories.

The Bureau believes there will likely be significant benefits to permitting creditors to request, before January 1, 2018, that applicants self-identify using the disaggregated ethnic and racial categories under amended Regulation C, using the processes and instructions provided in amended appendix B to Regulation C. The Bureau believes such authorization may provide creditors time to begin to implement the regulatory changes and improve their compliance processes before the new requirement becomes effective, and therefore mandatory, on January 1, 2018. Allowing for this increased implementation period will reduce compliance burden and further the purposes of HMDA and Regulation C. Some creditors may be ready to permit applicants to self-identify using disaggregated ethnic and racial categories before January 1, 2018, but could not fully transition to new forms and processes because of the prohibition in Regulation B § 1002.5(b). It may help industry adoption of those standards to allow creditors to permit applicants to self-identify using disaggregated ethnic and racial categories before January 1, 2018. Moreover, permitting applicants to self-identify using the disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule, before the effective date of that rule is consistent with the purposes of ECOA and Regulation B and does not pose a risk of harm to consumers. As the Bureau explained in the 2015 HMDA final rule, the Bureau believes that, among other things, disaggregation will encourage self-reporting by applicants by offering, as the Census does, categories that promote self-identification.[4]

B. Bureau Official Approval

At any time from January 1, 2017, through December 31, 2017, a creditor may, at its option, permit applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule. During this period, a creditor adopting the practice of permitting applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule, shall not be deemed to violate Regulation B § 1002.5(b). During this period, a creditor adopting the practice of permitting applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule, shall also be deemed to be in compliance with Regulation B § 1002.13(a)(i) even though applicants are asked to self-identify using categories other than those explicitly provided in that section. The issuance of this Bureau official approval has been duly authorized by the Director of the Bureau and provides the protection afforded under section 706(e) of ECOA.

C. Instructions for Submitting Data Collected Under This Approval

For purposes of submitting HMDA data for applications received from January 1, 2017, through December 31, 2017, and on which final action is taken during the 2017 calendar year, a financial institution shall submit the information concerning ethnicity and race pursuant to § 1003.4(a)(10), using only aggregate categories and the codes provided in the filing instructions guide for HMDA data collected in 2017, even if the financial institution has permitted applicants to self-identify using disaggregated categories pursuant to this Bureau official approval.[5] For such applications, if an applicant selects multiple disaggregated ethnicity or race categories that correspond to a single aggregate ethnicity or race category, the financial institution shall submit the applicable code for that aggregate ethnicity or race category. If an applicant selects multiple disaggregated race categories that correspond to multiple aggregate race categories, the financial institution shall submit the applicable code for each of those aggregate race categories. If an applicant selects an ''other'' race or ethnicity category, with or without providing a written response, the financial institution shall submit the applicable code for that aggregate race or ethnicity category. If an applicant selects multiple aggregate ethnicity categories by either selecting both Hispanic or Latino and Not Hispanic or Latino or selecting Not Hispanic or Latino and selecting the ''other'' ethnicity category, with or without providing a written response, the financial institution may submit either the applicable code for Hispanic or Latino or the applicable code for Not Hispanic or Latino.

For purposes of submitting HMDA data for applications received on or after January 1, 2017, and before January 1, 2018, and on which final action is taken on or after January 1, 2018, the financial institution, at its option, may submit the information concerning ethnicity and race under § 1003.4(a)(10)(i) using disaggregated categories if the applicant provided such information instead of using the transition rule in Regulation C comment 4(a)(10)(i)–2 as adopted by the 2015 HMDA final rule, or it may submit the information in accordance with that transition rule.

IV. Regulatory Requirements

This Bureau official approval is an approval or interpretation exempt from notice and comment rulemaking requirements under the Administrative Procedure Act. *See* 5 U.S.C. 551, 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this notice does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The existing information collections required by the Equal Credit Opportunity Act (ECOA) and Regulation B have been approved by the Office Of Management and Budget under OMB

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[2] Regulation B comment 5(a)(2)–2 explains that Regulation C generally requires creditors covered by HMDA to collect and report information about the race, ethnicity, and sex of applicants for home-improvement loans and home purchase loans, including some types of loans not covered by § 1002.13.

[3] 80 FR 66314, amendments to appendix B to Regulation C effective January 1, 2018.

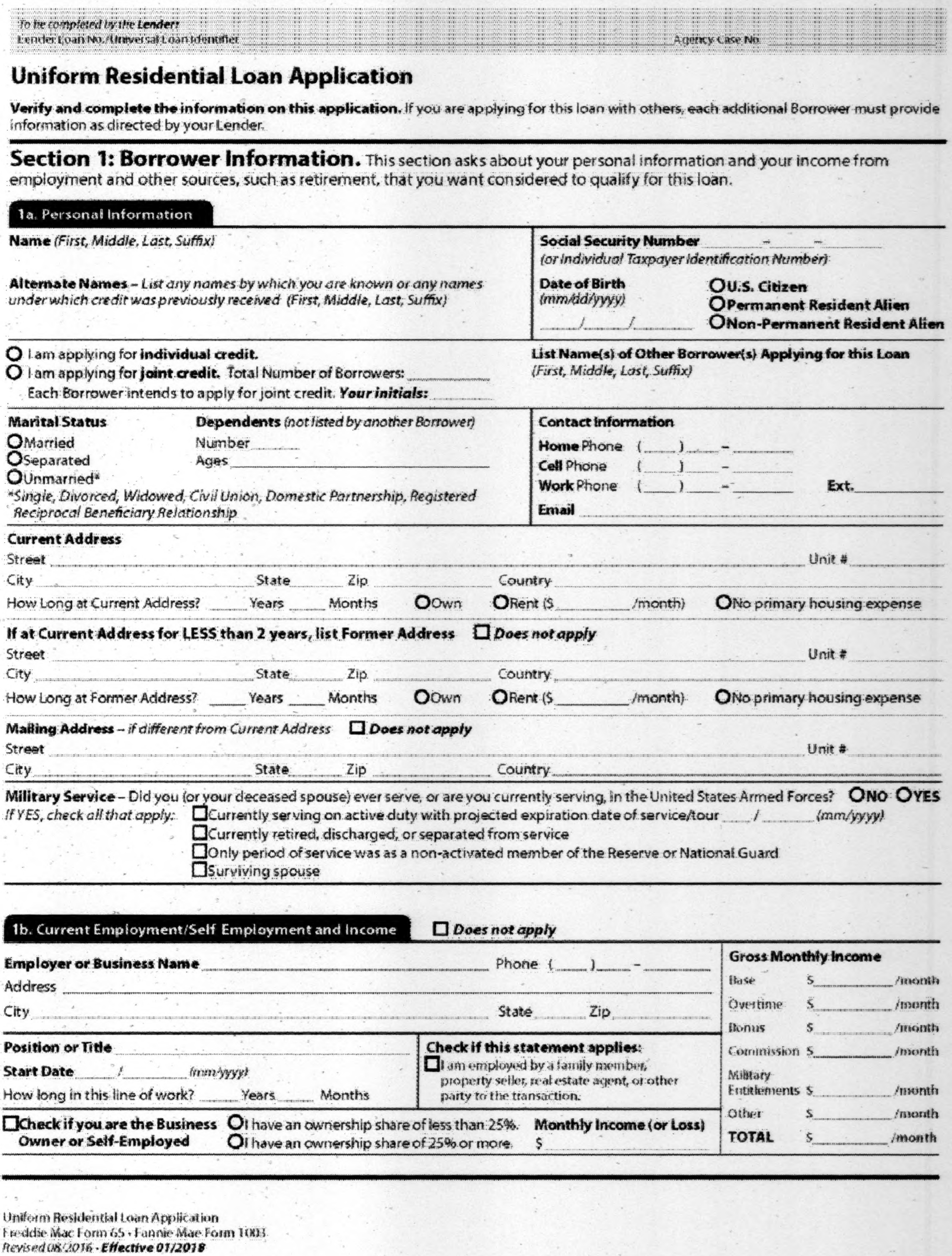
[4] HMDA Final Rule, 80 FR at 66190.

[5] *See* 2017 File Specifications in filing instructions guide for HMDA data collected in 2017, *available at: http://www.consumerfinance.gov/data-research/hmda/static/for-filers/2017/2017-HMDA-FIG.pdf.*

Control #3170–0013, and the information collections for the Home Mortgage Disclosure Act (HMDA) and Regulation C are approved under OMB Control #3170–0008. The Bureau's approval of the revised Uniform Residential Loan Application (2016 URLA) does not add or alter any information collections approved under either rule.

V. 2016 Uniform Residential Loan Application

BILLING CODE 4810–AM–P



To be completed by the ***Lender:***
Lender Loan No./Universal Loan Identifier ____________ Agency Case No. ____________

Uniform Residential Loan Application

Verify and complete the information on this application. If you are applying for this loan with others, each additional Borrower must provide information as directed by your Lender.

Section 1: Borrower Information.

This section asks about your personal information and your income from employment and other sources, such as retirement, that you want considered to qualify for this loan.

1a. Personal Information

Name *(First, Middle, Last, Suffix)*

Alternate Names – *List any names by which you are known or any names under which credit was previously received (First, Middle, Last, Suffix)*

Social Security Number ____ – ____ – ____
(or Individual Taxpayer Identification Number)

Date of Birth
(mm/dd/yyyy)
____ / ____ / ____

○ **U.S. Citizen**
○ **Permanent Resident Alien**
○ **Non-Permanent Resident Alien**

○ I am applying for **individual credit.**
○ I am applying for **joint credit.** Total Number of Borrowers: ________
Each Borrower intends to apply for joint credit. ***Your initials:*** ________

List Name(s) of Other Borrower(s) Applying for this Loan
(First, Middle, Last, Suffix)

Marital Status
○ Married
○ Separated
○ Unmarried*
**Single, Divorced, Widowed, Civil Union, Domestic Partnership, Registered Reciprocal Beneficiary Relationship*

Dependents *(not listed by another Borrower)*
Number ________
Ages ________

Contact Information
Home Phone (____) ____ – ______
Cell Phone (____) ____ – ______
Work Phone (____) ____ – ______ **Ext.** ______
Email ________

Current Address
Street ________________ Unit # ______
City ________ State ______ Zip ______ Country ________
How Long at Current Address? ____ Years ____ Months ○ Own ○ Rent ($ ________ /month) ○ No primary housing expense

If at Current Address for LESS than 2 years, list Former Address ☐ ***Does not apply***
Street ________________ Unit # ______
City ________ State ______ Zip ______ Country ________
How Long at Former Address? ____ Years ____ Months ○ Own ○ Rent ($ ________ /month) ○ No primary housing expense

Mailing Address – *if different from Current Address* ☐ ***Does not apply***
Street ________________ Unit # ______
City ________ State ______ Zip ______ Country ________

Military Service – Did you (or your deceased spouse) ever serve, or are you currently serving, in the United States Armed Forces? ○ **NO** ○ **YES**
If YES, check all that apply:
☐ Currently serving on active duty with projected expiration date of service/tour ____ / ______ *(mm/yyyy)*
☐ Currently retired, discharged, or separated from service
☐ Only period of service was as a non-activated member of the Reserve or National Guard
☐ Surviving spouse

1b. Current Employment/Self Employment and Income

☐ ***Does not apply***

Employer or Business Name ________________ Phone (____) ____ – ______
Address ________________
City ________________ State ______ Zip ______

Position or Title ________________
Start Date ____ / ______ *(mm/yyyy)*
How long in this line of work? ____ Years ____ Months

Check if this statement applies:
☐ I am employed by a family member, property seller, real estate agent, or other party to the transaction.

☐ **Check if you are the Business Owner or Self-Employed**
○ I have an ownership share of less than 25%.
○ I have an ownership share of 25% or more.

Monthly Income (or Loss)
$ ________

Gross Monthly Income

Base	$ ________	/month
Overtime	$ ________	/month
Bonus	$ ________	/month
Commission	$ ________	/month
Military Entitlements	$ ________	/month
Other	$ ________	/month
TOTAL	$ ________	/month

Uniform Residential Loan Application
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***

1c. IF APPLICABLE. Complete Information for Additional Employment/Self Employment and Income

☐ ***Does not apply***

Employer or Business Name ____________ Phone (____) ____ – ______
Address ____________
City ____________ State ____ Zip ______

Position or Title ____________
Start Date ____ /______ *(mm/yyyy)*
How long in this line of work? ____ Years ____ Months

Check if this statement applies:
☐ I am employed by a family member, property seller, real estate agent, or other party to the transaction.

☐ **Check if you are the Business Owner or Self-Employed**
○ I have an ownership share of less than 25%.
○ I have an ownership share of 25% or more.
Monthly Income (or Loss) $ ______

Gross Monthly Income
Base $ ______ /month
Overtime $ ______ /month
Bonus $ ______ /month
Commission $ ______ /month
Military Entitlements $ ______ /month
Other $ ______ /month
TOTAL $ ______ **/month**

1d. Previous Employment/Self-Employment and Income ONLY IF your Current Employment is LESS than 2 years.

☐ ***Does not apply***

Employer or Business Name ____________
Address ____________
City ____________ State ____ Zip ______
Position or Title ____________
Start Date ____ /______ *(mm/yyyy)* **End Date** ____ /______ *(mm/yyyy)*

☐ **Check if you were the Business Owner or Self-Employed**

Previous Gross Monthly Income
$ ______

1e. Income from Other Sources

☐ ***Does not apply***

Include income from other sources below. Under Income Source, choose from the sources listed here:

- Alimony
- Automobile Allowance
- Boarder Income
- Capital Gains
- Child Support
- Disability
- Foster Care
- Housing or Parsonage
- Interest and Dividends
- Notes Receivable
- Public Assistance
- Mortgage Credit Certificate
- Mortgage Differential Payments
- Retirement (*e.g., Pension, IRA*)
- Royalty Payments
- Separate Maintenance
- Social Security
- Trust
- Unemployment Benefits
- VA Compensation
- Other

NOTE: *Reveal alimony, child support, separate maintenance, or other income ONLY IF you want it considered in determining your qualification for this loan.*

Income Source – *use list above*	**Monthly Income**
	$
	$
	$
Provide TOTAL Amount Here	**$**

Section 2: Financial Information — Assets and Liabilities.

This section asks about things you own that are worth money and that you want considered to qualify for this loan. It then asks about your liabilities (or debts) that you pay each month, such as credit cards, alimony, or other expenses.

2a. Assets – Bank Accounts, Retirement, and Other Accounts You Have

Include all accounts below. Under Account Type, choose from the account types listed here:

- Checking
- Savings
- Money Market
- Certificate of Deposit
- Mutual Fund
- Stocks
- Stock Options
- Bonds
- Retirement (*e.g., 401k, IRA*)
- Bridge Loan Proceeds
- Individual Development Account
- Trust Account
- Cash Value of Life Insurance *(used for the transaction)*

Account Type – *use list above*	**Financial Institution**	**Account Number**	**Cash or Market Value**
			$
			$
			$
			$
			$
		Provide TOTAL Amount Here	**$**

Borrower Name: ____________

2b. Other Assets You Have ☐ *Does not apply*

Include all other assets below. Under Asset Type, choose from the asset types listed here:

- Earnest Money
- Proceeds from Sale of Non-Real Estate Asset
- Proceeds from Real Estate Property to be sold on or before closing
- Sweat Equity
- Employer Assistance
- Rent Credit
- Secured Borrowed Funds
- Trade Equity
- Unsecured Borrowed Funds
- Other

Asset Type – *use list above*	**Cash or Market Value**
	$
	$
	$
Provide TOTAL Amount Here	$

2c. Liabilities – Credit Cards, Other Debts, and Leases that You Owe ☐ *Does not apply*

List all liabilities below (except real estate) and include deferred payments. Under Account Type, choose from the types listed here:

- Revolving (*e.g., credit cards*)
- Installment (*e.g., car, student, personal loans*)
- Open 30-Day (*balance paid monthly*)
- Lease (*not real estate*)
- Other

Account Type – *use list above*	**Company Name**	**Account Number**	**Unpaid Balance**	*To be paid off at or before closing*	**Monthly Payment**
			$	☐	$
			$	☐	$
			$	☐	$
			$	☐	$
			$	☐	$

2d. Other Liabilities and Expenses ☐ *Does not apply*

Include all other liabilities and expenses below. Choose from the types listed here: - Alimony - Child Support - Separate Maintenance - Job Related Expenses - Other	**Monthly Payment**
	$
	$
	$

Section 3: Financial Information — Real Estate.

This section asks you to list all properties you currently own and what you owe on them. ☐ ***I do not own any real estate***

3a. Property You Own **If you are refinancing, list the property you are refinancing FIRST.**

Address

Street ______________________ Unit # __________ City ______________________ State _____ Zip ________

Property Value	**Status:** Sold, Pending Sale, or Retained	**Monthly Insurance, Taxes, Association Dues, etc.** Not Included in Mortgage Payment	**For Investment Property Only** **Monthly Rental Income**	 **For LENDER to Calculate:** Net Monthly Rental Income
$		$	$	$

Mortgage Loans on this Property ☐ *Does not apply*

Creditor Name	**Account Number**	**Monthly Mortgage Payment**	**Unpaid Balance**	*To be paid off at or before closing*	**Type:** FHA, VA, Conventional, USDA-RD, Other	**Credit Limit** *(if applicable)*
		$	$	☐		$
		$	$	☐		$

Borrower Name: ______________________________

3b. IF APPLICABLE, Complete Information for Additional Property ☐ ***Does not apply***

Address
Street ______ Unit # ______ City ______ State ______ Zip ______

Property Value	**Status:** Sold, Pending Sale, or Retained	**Monthly Insurance, Taxes, Association Dues, etc.** Not Included in Mortgage Payment	**For Investment Property Only** **Monthly Rental Income**	**For Investment Property Only** **For LENDER to Calculate:** Net Monthly Rental Income
$		$	$	$

Mortgage Loans on this Property ☐ ***Does not apply***

Creditor Name	**Account Number**	**Monthly Mortgage Payment**	**Unpaid Balance**	*To be paid off at or before closing*	**Type:** FHA, VA, Conventional, USDA-RD, Other	**Credit Limit** *(if applicable)*
		$	$	☐		$
		$	$	☐		$

Section 4: Loan and Property Information.

This section asks about the loan's purpose and the property you want to purchase or refinance.

4a. Loan and Property Information

Loan Amount $ ______ **Loan Purpose** ○Purchase ○Refinance ○Other ______
Property Address Street ______
Unit # ______ City ______ State ______ Zip ______
County ______ Number of Units ______ **Property Value** $ ______
Occupancy ○Primary Residence ○Second Home ○Investment Property ○FHA Secondary Residence

1. **Mixed-Use Property.** If you will occupy the property, will you set aside space within the property to operate your own business? *(e.g., daycare facility, medical office, beauty/barber shop)* ○NO ○YES
2. **Manufactured Home.** Is the property a manufactured home? *(e.g., a factory built dwelling built on a permanent chassis)* ○NO ○YES

4b. Other New Mortgage Loans on the Property You are Buying or Refinancing ☐ ***Does not apply***

Creditor Name	**Lien Type**	**Monthly Payment**	**Loan Amount/ Amount to be Drawn**	**Credit Limit** *(if applicable)*
	○First Lien ○Subordinate Lien	$	$	$

4c. Rental Income on the Property You Want to Purchase **For Purchase Only** ☐ ***Does not apply***

Complete if the property is a 2-4 Unit Primary Residence or an Investment Property	**Amount**
Expected Monthly Rental Income	$
For LENDER to Calculate: Expected Net Monthly Rental Income	$

4d. Gifts or Grants You Have Been Given or Will Receive for this Loan ☐ ***Does not apply***

Include all gifts and grants below. Under Source, choose from the sources listed here:

- Relative
- Unmarried Partner
- Employer
- Religious Nonprofit
- Community Nonprofit
- Federal Agency
- State Agency
- Local Agency
- Other

Asset Type *(Cash Gift, Gift of Equity, Grant)*		**Source** – *use list above*	**Cash or Market Value**
	○Deposited ○Not Deposited		$
	○Deposited ○Not Deposited		$

Borrower Name: ______

Section 5: Declarations.

This section asks you specific questions about the property, your funding, and your past financial history.

5a. About this Property and Your Money for this Loan

A. Will you occupy the property as your primary residence?	○ NO ○ YES
If YES, have you had an ownership interest in another property in the last three years?	○ NO ○ YES
If YES, complete (1) and (2) below:	
(1) What type of property did you own: primary residence (PR), FHA secondary residence (SR), second home (SH), or investment property (IP)?	________
(2) How did you hold title to the property: by yourself (S), jointly with your spouse (SP), or jointly with another person (O)	________
B. If this is a Purchase Transaction: Do you have a family relationship or business affiliation with the seller of the property?	○ NO ○ YES
C. Are you borrowing any money for this real estate transaction (*e.g., money for your closing costs or down payment*) or obtaining any money from another party, such as the seller or realtor, that you have not disclosed on this loan application?	○ NO ○ YES
If YES, what is the amount of this money?	$ ________
D. 1. Have you or will you be applying for a mortgage loan on another property (not the property securing this loan) on or before closing this transaction that is not disclosed on this loan application?	○ NO ○ YES
2. Have you or will you be applying for any new credit (*e.g., installment loan, credit card, etc.*) on or before closing this loan that is not disclosed on this application?	○ NO ○ YES
E. Will this property be subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid through your property taxes (*e.g., the Property Assessed Clean Energy Program*)?	○ NO ○ YES

5b. About Your Finances

F. Are you a co-signer or guarantor on any debt or loan that is not disclosed on this application?	○ NO ○ YES
G. Are there any outstanding judgments against you?	○ NO ○ YES
H. Are you currently delinquent or in default on a federal debt?	○ NO ○ YES
I. Are you a party to a lawsuit in which you potentially have any personal financial liability?	○ NO ○ YES
J. Have you conveyed title to any property in lieu of foreclosure in the past 7 years?	○ NO ○ YES
K. Within the past 7 years, have you completed a pre-foreclosure sale or short sale, whereby the property was sold to a third party and the Lender agreed to accept less than the outstanding mortgage balance due?	○ NO ○ YES
L. Have you had property foreclosed upon in the last 7 years?	○ NO ○ YES
M. Have you declared bankruptcy within the past 7 years? If YES, identify the type(s) of bankruptcy: ☐ Chapter 7 ☐ Chapter 11 ☐ Chapter 12 ☐ Chapter 13	○ NO ○ YES

Borrower Name: ________________________________

Section 6: Acknowledgments and Agreements.

This section tells you about your legal obligations when you sign this application.

Acknowledgments and Agreements

I agree to, acknowledge, and represent the following statements to:

- The Lender (this includes the Lender's agents, service providers and any of their successors and assigns); AND
- Other Loan Participants (this includes any actual or potential owners of a loan resulting from this application (the "Loan"), or acquirers of any beneficial or other interest in the Loan, any mortgage insurer, guarantor, any servicers or service providers of the Loan, and any of their successors and assigns).

By signing below, I agree to, acknowledge, and represent the following statements about:

(1) The Complete Information for this Application

- The information I have provided in this application is true, accurate, and complete as of the date I signed this application.
- If the information I submitted changes or I have new information before closing of the Loan, I must change and supplement this application or any real estate sales contract, including providing any updated/supplemented real estate sales contract.
- For purchase transactions: The terms and conditions of any real estate sales contract signed by me in connection with this application are true, accurate, and complete to the best of my knowledge and belief. I have not entered into any other agreement, written or oral, in connection with this real estate transaction.
- The Lender and Other Loan Participants may rely on the information contained in the application before and after closing of the Loan.
- Any intentional or negligent misrepresentation of information may result in the imposition of:
  - (a) civil liability on me, including monetary damages, if a person suffers any loss because the person relied on any misrepresentation that I have made on this application, and/or
  - (b) criminal penalties on me including, but not limited to, fine or imprisonment or both under the provisions of federal law (18 U.S.C. §§ 1001 *et seq.*).

(2) The Property's Security

- The Loan I have applied for in this application will be secured by a mortgage or deed of trust which provides the Lender a security interest in the property described in this application.

(3) The Property's Appraisal, Value, and Condition

- Any appraisal or value of the property obtained by the Lender is for use by the Lender and Other Loan Participants.
- The Lender and Other Loan Participants have not made any representation or warranty, express or implied, to me about the property, its condition, or its value.

(4) Electronic Records and Signatures

- The Lender and Other Loan Participants may keep any paper record and/or electronic record of this application, whether or not the Loan is approved.
- If this application is created as (or converted into) an "electronic application", I consent to the use of "electronic records" and "electronic signatures" as the terms are defined in and governed by applicable federal and/or state electronic transactions laws.
- I intend to sign and have signed this application either using my: (a) electronic signature; or (b) a written signature and agree that if a paper version of this application is converted into an electronic application, the application will be an electronic record, and the representation of my written signature on this application will be my binding electronic signature.
- I agree that the application, if delivered or transmitted to the Lender or Other Loan Participants as an electronic record with my electronic signature, will be as effective and enforceable as a paper application signed by me in writing.

(5) Delinquency

- The Lender and Other Loan Participants may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report and will likely affect my credit score.
- If I have trouble making my payments I understand that I may contact a HUD-approved housing counseling organization for advice about actions I can take to meet my mortgage obligations.

(6) Use and Sharing of Information

I understand and acknowledge that the Lender and Other Loan Participants can obtain, use, and share the loan application, a consumer credit report, and related documentation for purposes permitted by applicable laws.

Borrower Signature ______________________________ Date *(mm/dd/yyyy)* ____/____/______

Borrower Signature ______________________________ Date *(mm/dd/yyyy)* ____/____/______

Section 7: Demographic Information. This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application.
Instructions: You may select one or more "Hispanic or Latino" origins and one or more designations for "Race." If you do not wish to provide some or all of this information, select the applicable check box.

Ethnicity
- ☐ Hispanic or Latino
  - ☐ Mexican ☐ Puerto Rican ☐ Cuban
  - ☐ Other Hispanic or Latino – *Enter origin:* ____________
  - *Examples: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, etc.*
- ☐ Not Hispanic or Latino
- ☐ I do not wish to provide this information

Sex
- ☐ Female
- ☐ Male
- ☐ I do not wish to provide this information

Race
- ☐ American Indian or Alaska Native – *Enter name of enrolled or principal tribe:* ____________
- ☐ Asian
  - ☐ Asian Indian ☐ Chinese ☐ Filipino
  - ☐ Japanese ☐ Korean ☐ Vietnamese
  - ☐ Other Asian – *Enter race:* ____________
  - *Examples: Hmong, Laotian, Thai, Pakistani, Cambodian, etc.*
- ☐ Black or African American
- ☐ Native Hawaiian or Other Pacific Islander
  - ☐ Native Hawaiian ☐ Guamanian or Chamorro ☐ Samoan
  - ☐ Other Pacific Islander – *Enter race:* ____________
  - *Examples: Fijian, Tongan, etc.*
- ☐ White
- ☐ I do not wish to provide this information

To Be Completed by Financial Institution (*for application taken in person*):

Was the ethnicity of the Borrower collected on the basis of visual observation or surname?	○NO ○YES
Was the sex of the Borrower collected on the basis of visual observation or surname?	○NO ○YES
Was the race of the Borrower collected on the basis of visual observation or surname?	○NO ○YES

The Demographic Information was provided through:

☐Face-to-Face Interview (*includes Electronic Media w/ Video Component*) ☐Telephone Interview ☐Fax or Mail ☐Email or Internet

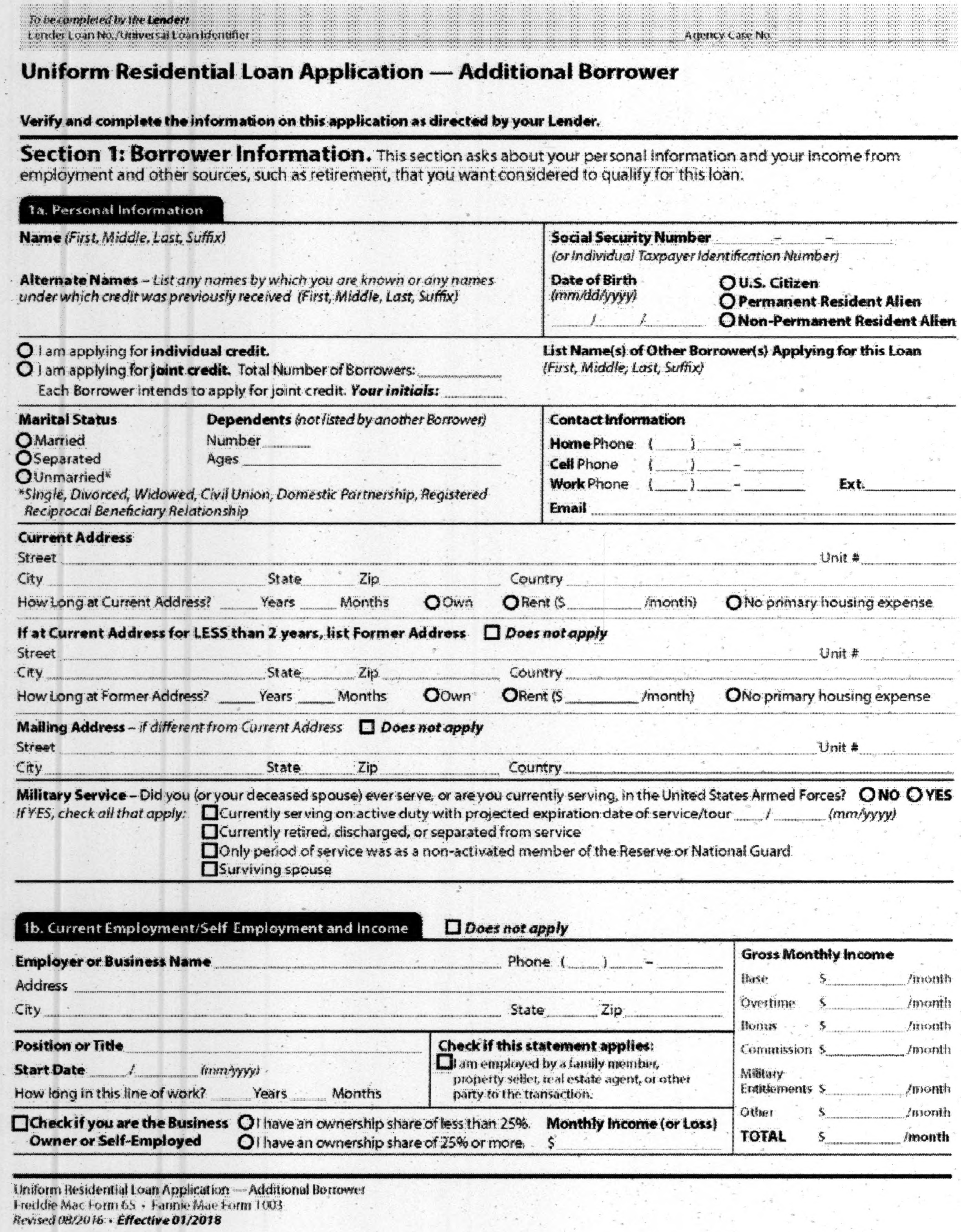
Section 8: Loan Originator Information.

Loan Originator Information

Loan Originator Organization Name ____________
Address ____________
Loan Originator Organization NMLSR ID# ____________ State License ID# ____________
Loan Originator Name ____________
Loan Originator NMLSR ID# ____________ State License ID# ____________
Email ____________ Phone ( ) –
Signature ____________ Date (*mm/dd/yyyy*): / /

Borrower Name: ____________

Uniform Residential Loan Application
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***



To be completed by the ***Lender:***
Lender Loan No./Universal Loan Identifier ______ Agency Case No. ______

Uniform Residential Loan Application — Additional Borrower

Verify and complete the information on this application as directed by your Lender.

Section 1: Borrower Information.

This section asks about your personal information and your income from employment and other sources, such as retirement, that you want considered to qualify for this loan.

1a. Personal Information

Name *(First, Middle, Last, Suffix)*

Alternate Names – *List any names by which you are known or any names under which credit was previously received (First, Middle, Last, Suffix)*

Social Security Number ___–___–___
(or Individual Taxpayer Identification Number)

Date of Birth *(mm/dd/yyyy)* ___/___/___

○ **U.S. Citizen**
○ **Permanent Resident Alien**
○ **Non-Permanent Resident Alien**

○ I am applying for **individual credit.**
○ I am applying for **joint credit.** Total Number of Borrowers: ______
Each Borrower intends to apply for joint credit. ***Your initials:*** ______

List Name(s) of Other Borrower(s) Applying for this Loan
(First, Middle, Last, Suffix)

Marital Status
○ Married
○ Separated
○ Unmarried*
**Single, Divorced, Widowed, Civil Union, Domestic Partnership, Registered Reciprocal Beneficiary Relationship*

Dependents *(not listed by another Borrower)*
Number ______
Ages ______

Contact Information
Home Phone ( ) –
Cell Phone ( ) –
Work Phone ( ) – **Ext.** ______
Email ______

Current Address
Street ______ Unit # ______
City ______ State ______ Zip ______ Country ______
How Long at Current Address? ___ Years ___ Months ○ Own ○ Rent ($ ______ /month) ○ No primary housing expense

If at Current Address for LESS than 2 years, list Former Address ☐ ***Does not apply***
Street ______ Unit # ______
City ______ State ______ Zip ______ Country ______
How Long at Former Address? ___ Years ___ Months ○ Own ○ Rent ($ ______ /month) ○ No primary housing expense

Mailing Address – *if different from Current Address* ☐ ***Does not apply***
Street ______ Unit # ______
City ______ State ______ Zip ______ Country ______

Military Service – Did you (or your deceased spouse) ever serve, or are you currently serving, in the United States Armed Forces? ○ **NO** ○ **YES**
If YES, check all that apply:
☐ Currently serving on active duty with projected expiration date of service/tour ___/___ *(mm/yyyy)*
☐ Currently retired, discharged, or separated from service
☐ Only period of service was as a non-activated member of the Reserve or National Guard
☐ Surviving spouse

1b. Current Employment/Self Employment and Income

☐ ***Does not apply***

Employer or Business Name ______ Phone ( ) –
Address ______
City ______ State ______ Zip ______

Position or Title ______
Start Date ___/___ *(mm/yyyy)*
How long in this line of work? ___ Years ___ Months

Check if this statement applies:
☐ I am employed by a family member, property seller, real estate agent, or other party to the transaction.

☐ **Check if you are the Business Owner or Self-Employed**
○ I have an ownership share of less than 25%.
○ I have an ownership share of 25% or more.
Monthly Income (or Loss) $ ______

Gross Monthly Income

Base	$	/month
Overtime	$	/month
Bonus	$	/month
Commission	$	/month
Military Entitlements	$	/month
Other	$	/month
TOTAL	$	**/month**

Uniform Residential Loan Application — Additional Borrower
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***

1c. IF APPLICABLE, Complete Information for Additional Employment/Self Employment and Income

☐ ***Does not apply***

Employer or Business Name ________________ Phone (____) ____ - ______
Address ________________
City ________________ State ______ Zip ______

Position or Title ________________
Start Date ____/______ *(mm/yyyy)*
How long in this line of work? ____ Years ____ Months

Check if this statement applies:
☐ I am employed by a family member, property seller, real estate agent, or other party to the transaction.

☐ **Check if you are the Business Owner or Self-Employed**
○ I have an ownership share of less than 25%.
○ I have an ownership share of 25% or more.

Monthly Income (or Loss)
$ ______________

Gross Monthly Income		
Base	$ ________	/month
Overtime	$ ________	/month
Bonus	$ ________	/month
Commission	$ ________	/month
Military Entitlements	$ ________	/month
Other	$ ________	/month
TOTAL	$ ________	**/month**

1d. Previous Employment/Self-Employment and Income ONLY IF your Current Employment is LESS than 2 years.

☐ ***Does not apply***

Employer or Business Name ________________
Address ________________
City ________________ State ______ Zip ______
Position or Title ________________
Start Date ____/______ *(mm/yyyy)* **End Date** ____/______ *(mm/yyyy)*

☐ **Check if you were the Business Owner or Self-Employed**

Previous Gross Monthly Income
$ ______________

1e. Income from Other Sources

☐ ***Does not apply***

Include income from other sources below. Under Income Source, choose from the sources listed here:

- Alimony
- Automobile Allowance
- Boarder Income
- Capital Gains
- Child Support
- Disability
- Foster Care
- Housing or Parsonage
- Interest and Dividends
- Notes Receivable
- Public Assistance
- Mortgage Credit Certificate
- Mortgage Differential Payments
- Retirement (*e.g., Pension, IRA*)
- Royalty Payments
- Separate Maintenance
- Social Security
- Trust
- Unemployment Benefits
- VA Compensation
- Other

NOTE: *Reveal alimony, child support, separate maintenance, or other income ONLY IF you want it considered in determining your qualification for this loan.*

Income Source – *use list above*	**Monthly Income**
	$
	$
	$
Provide TOTAL Amount Here	**$**

Section 2: Financial Information — Assets and Liabilities.

My information for Section 2 is listed on the Uniform Residential Loan Application with ________________
(insert name of Borrower)

Section 3: Financial Information — Real Estate.

My information for Section 3 is listed on the Uniform Residential Loan Application with ________________
(insert name of Borrower)

Section 4: Loan and Property Information.

My information for Section 4 is listed on the Uniform Residential Loan Application with ________________
(insert name of Borrower)

Borrower Name: ________________

Section 5: Declarations.

This section asks you specific questions about the property, your funding, and your past financial history.

5a. About this Property and Your Money for this Loan

A. Will you occupy the property as your primary residence? If YES, have you had an ownership interest in another property in the last three years? If YES, complete (1) and (2) below: (1) What type of property did you own: primary residence (PR), FHA secondary residence (SR), second home (SH), or investment property (IP)? (2) How did you hold title to the property: by yourself (S), jointly with your spouse (SP), or jointly with another person (O)	○NO ○YES ○NO ○YES ____________ ____________
B. If this is a Purchase Transaction: Do you have a family relationship or business affiliation with the seller of the property?	○NO ○YES
C. Are you borrowing any money for this real estate transaction (*e.g., money for your closing costs or down payment*) or obtaining any money from another party, such as the seller or realtor, that you have not disclosed on this loan application? If YES, what is the amount of this money?	○NO ○YES $ ____________
D. 1. Have you or will you be applying for a mortgage loan on another property (not the property securing this loan) on or before closing this transaction that is not disclosed on this loan application? 2. Have you or will you be applying for any new credit (*e.g., installment loan, credit card, etc.*) on or before closing this loan that is not disclosed on this application?	○NO ○YES ○NO ○YES
E. Will this property be subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid through your property taxes (*e.g., the Property Assessed Clean Energy Program*)?	○NO ○YES

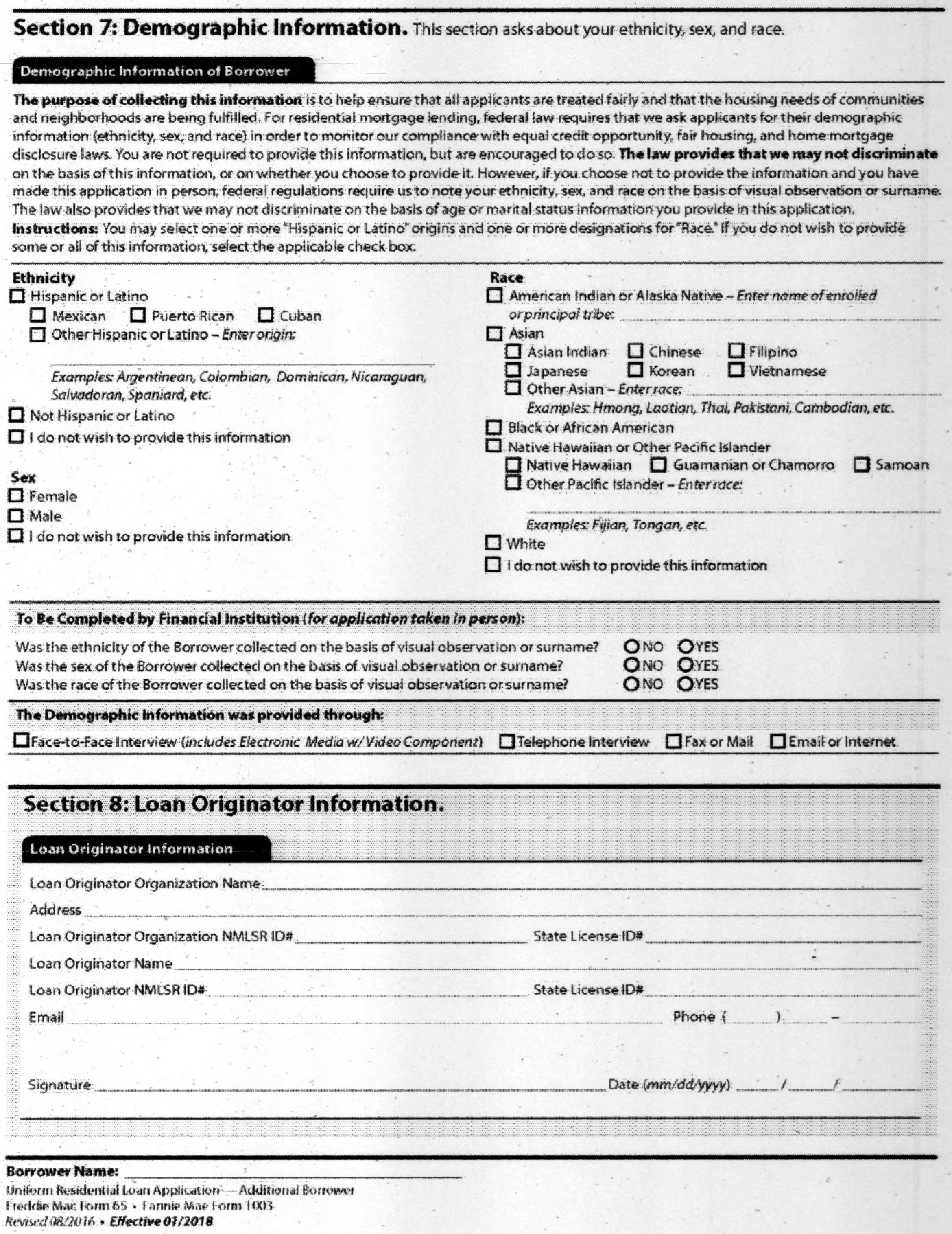
5b. About Your Finances

F. Are you a co-signer or guarantor on any debt or loan that is not disclosed on this application?	○NO ○YES
G. Are there any outstanding judgments against you?	○NO ○YES
H. Are you currently delinquent or in default on a federal debt?	○NO ○YES
I. Are you a party to a lawsuit in which you potentially have any personal financial liability?	○NO ○YES
J. Have you conveyed title to any property in lieu of foreclosure in the past 7 years?	○NO ○YES
K. Within the past 7 years, have you completed a pre-foreclosure sale or short sale, whereby the property was sold to a third party and the Lender agreed to accept less than the outstanding mortgage balance due?	○NO ○YES
L. Have you had property foreclosed upon in the last 7 years?	○NO ○YES
M. Have you declared bankruptcy within the past 7 years? If YES, identify the type(s) of bankruptcy: ☐ Chapter 7 ☐ Chapter 11 ☐ Chapter 12 ☐ Chapter 13	○NO ○YES

Section 6: Acknowledgements and Agreements.

My signature for Section 6 is on the Uniform Residential Loan Application with ____________________
(insert name of Borrower)

Borrower Name: ____________________



Section 7: Demographic Information. This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application.

Instructions: You may select one or more "Hispanic or Latino" origins and one or more designations for "Race." If you do not wish to provide some or all of this information, select the applicable check box.

Ethnicity

- ☐ Hispanic or Latino
  - ☐ Mexican ☐ Puerto Rican ☐ Cuban
  - ☐ Other Hispanic or Latino – *Enter origin:* ____________
  - *Examples: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, etc.*
- ☐ Not Hispanic or Latino
- ☐ I do not wish to provide this information

Sex

- ☐ Female
- ☐ Male
- ☐ I do not wish to provide this information

Race

- ☐ American Indian or Alaska Native – *Enter name of enrolled or principal tribe:* ____________
- ☐ Asian
  - ☐ Asian Indian ☐ Chinese ☐ Filipino
  - ☐ Japanese ☐ Korean ☐ Vietnamese
  - ☐ Other Asian – *Enter race:* ____________
  - *Examples: Hmong, Laotian, Thai, Pakistani, Cambodian, etc.*
- ☐ Black or African American
- ☐ Native Hawaiian or Other Pacific Islander
  - ☐ Native Hawaiian ☐ Guamanian or Chamorro ☐ Samoan
  - ☐ Other Pacific Islander – *Enter race:* ____________
  - *Examples: Fijian, Tongan, etc.*
- ☐ White
- ☐ I do not wish to provide this information

To Be Completed by Financial Institution (*for application taken in person*):

Was the ethnicity of the Borrower collected on the basis of visual observation or surname? ○ NO ○ YES
Was the sex of the Borrower collected on the basis of visual observation or surname? ○ NO ○ YES
Was the race of the Borrower collected on the basis of visual observation or surname? ○ NO ○ YES

The Demographic Information was provided through:

☐ Face-to-Face Interview (*includes Electronic Media w/ Video Component*) ☐ Telephone Interview ☐ Fax or Mail ☐ Email or Internet

Section 8: Loan Originator Information.

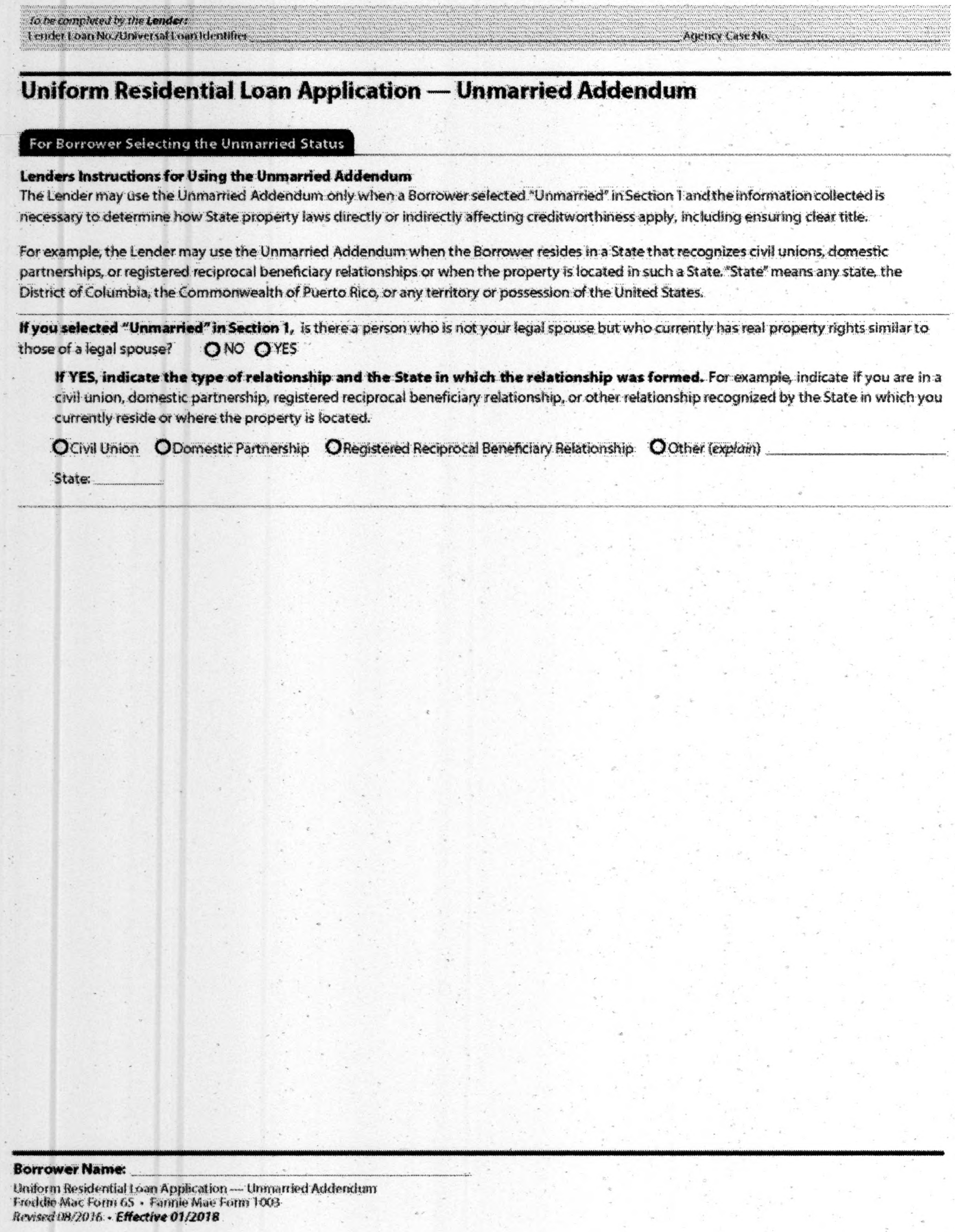
Loan Originator Information

Loan Originator Organization Name ____________
Address ____________
Loan Originator Organization NMLSR ID# ____________ State License ID# ____________
Loan Originator Name ____________
Loan Originator NMLSR ID# ____________ State License ID# ____________
Email ____________ Phone (____) ____ – ____

Signature ____________ Date (*mm/dd/yyyy*) ____ / ____ / ____

Borrower Name: ____________

Uniform Residential Loan Application — Additional Borrower
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***



To be completed by the ***Lender:***
Lender Loan No./Universal Loan Identifier ________________ Agency Case No. ________________

Uniform Residential Loan Application — Unmarried Addendum

For Borrower Selecting the Unmarried Status

Lenders Instructions for Using the Unmarried Addendum
The Lender may use the Unmarried Addendum only when a Borrower selected "Unmarried" in Section 1 and the information collected is necessary to determine how State property laws directly or indirectly affecting creditworthiness apply, including ensuring clear title.

For example, the Lender may use the Unmarried Addendum when the Borrower resides in a State that recognizes civil unions, domestic partnerships, or registered reciprocal beneficiary relationships or when the property is located in such a State. "State" means any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

If you selected "Unmarried" in Section 1, is there a person who is not your legal spouse but who currently has real property rights similar to those of a legal spouse? ○ NO ○ YES

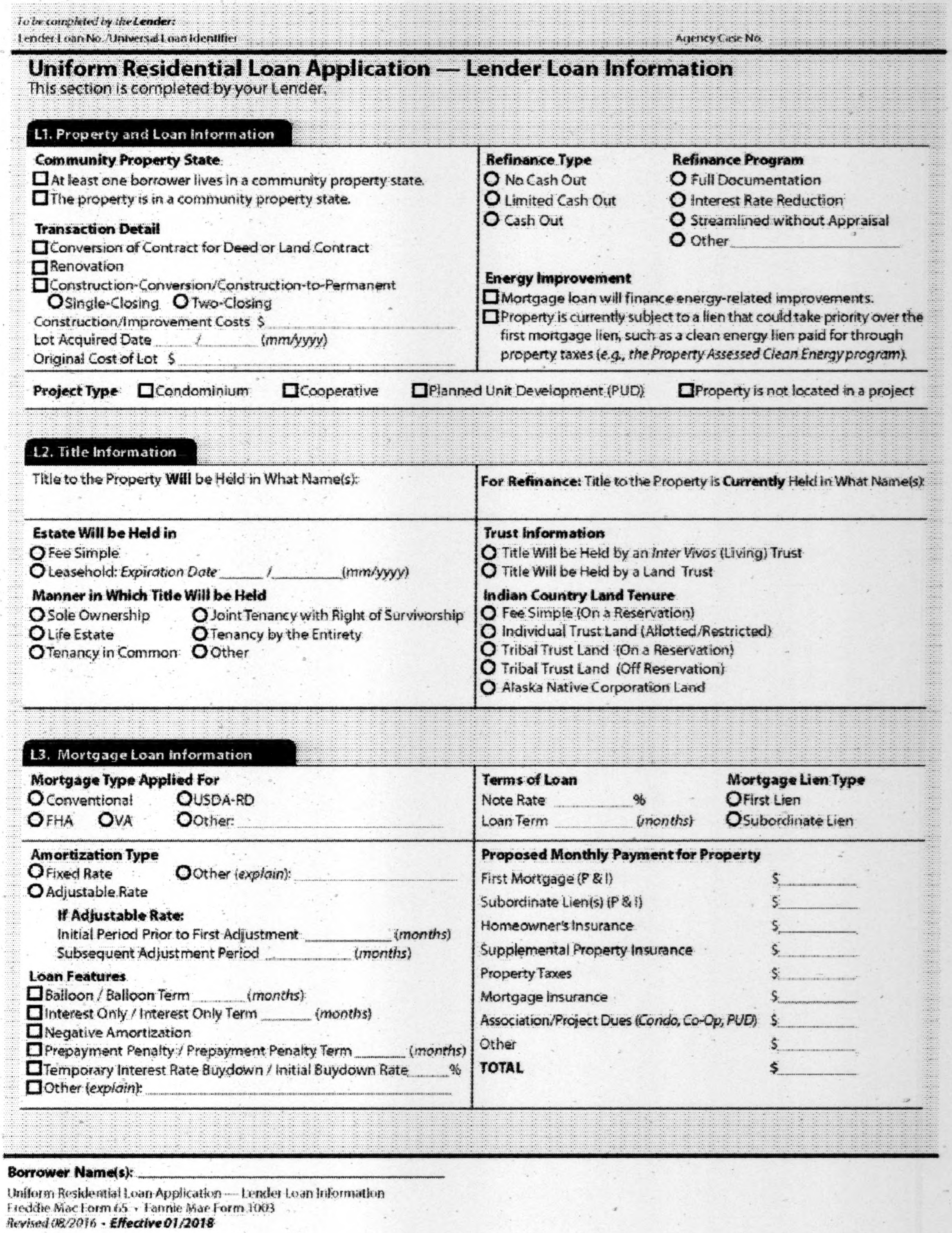
If YES, indicate the type of relationship and the State in which the relationship was formed. For example, indicate if you are in a civil union, domestic partnership, registered reciprocal beneficiary relationship, or other relationship recognized by the State in which you currently reside or where the property is located.

○ Civil Union ○ Domestic Partnership ○ Registered Reciprocal Beneficiary Relationship ○ Other *(explain)* ________________

State: ________

Borrower Name: ________________________

Uniform Residential Loan Application — Unmarried Addendum
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***



To be completed by the **Lender:**
Lender Loan No./Universal Loan Identifier ______ Agency Case No. ______

Uniform Residential Loan Application — Lender Loan Information

This section is completed by your Lender.

L1. Property and Loan Information

Community Property State
☐ At least one borrower lives in a community property state.
☐ The property is in a community property state.

Transaction Detail
☐ Conversion of Contract for Deed or Land Contract
☐ Renovation
☐ Construction-Conversion/Construction-to-Permanent
○ Single-Closing ○ Two-Closing
Construction/Improvement Costs $ ______
Lot Acquired Date ____ /______ *(mm/yyyy)*
Original Cost of Lot $ ______

Refinance Type
○ No Cash Out
○ Limited Cash Out
○ Cash Out

Refinance Program
○ Full Documentation
○ Interest Rate Reduction
○ Streamlined without Appraisal
○ Other ______

Energy Improvement
☐ Mortgage loan will finance energy-related improvements.
☐ Property is currently subject to a lien that could take priority over the first mortgage lien, such as a clean energy lien paid for through property taxes (*e.g., the Property Assessed Clean Energy program*).

Project Type ☐ Condominium ☐ Cooperative ☐ Planned Unit Development (PUD) ☐ Property is not located in a project

L2. Title Information

Title to the Property **Will** be Held in What Name(s):

For Refinance: Title to the Property is **Currently** Held in What Name(s):

Estate Will be Held in
○ Fee Simple
○ Leasehold: *Expiration Date* ____ /______ *(mm/yyyy)*

Manner in Which Title Will be Held
○ Sole Ownership ○ Joint Tenancy with Right of Survivorship
○ Life Estate ○ Tenancy by the Entirety
○ Tenancy in Common ○ Other

Trust Information
○ Title Will be Held by an *Inter Vivos* (Living) Trust
○ Title Will be Held by a Land Trust

Indian Country Land Tenure
○ Fee Simple (On a Reservation)
○ Individual Trust Land (Allotted/Restricted)
○ Tribal Trust Land (On a Reservation)
○ Tribal Trust Land (Off Reservation)
○ Alaska Native Corporation Land

L3. Mortgage Loan Information

Mortgage Type Applied For
○ Conventional ○ USDA-RD
○ FHA ○ VA ○ Other: ______

Terms of Loan
Note Rate ______ %
Loan Term ______ *(months)*

Mortgage Lien Type
○ First Lien
○ Subordinate Lien

Amortization Type
○ Fixed Rate ○ Other *(explain)*: ______
○ Adjustable Rate

If Adjustable Rate:
Initial Period Prior to First Adjustment ______ *(months)*
Subsequent Adjustment Period ______ *(months)*

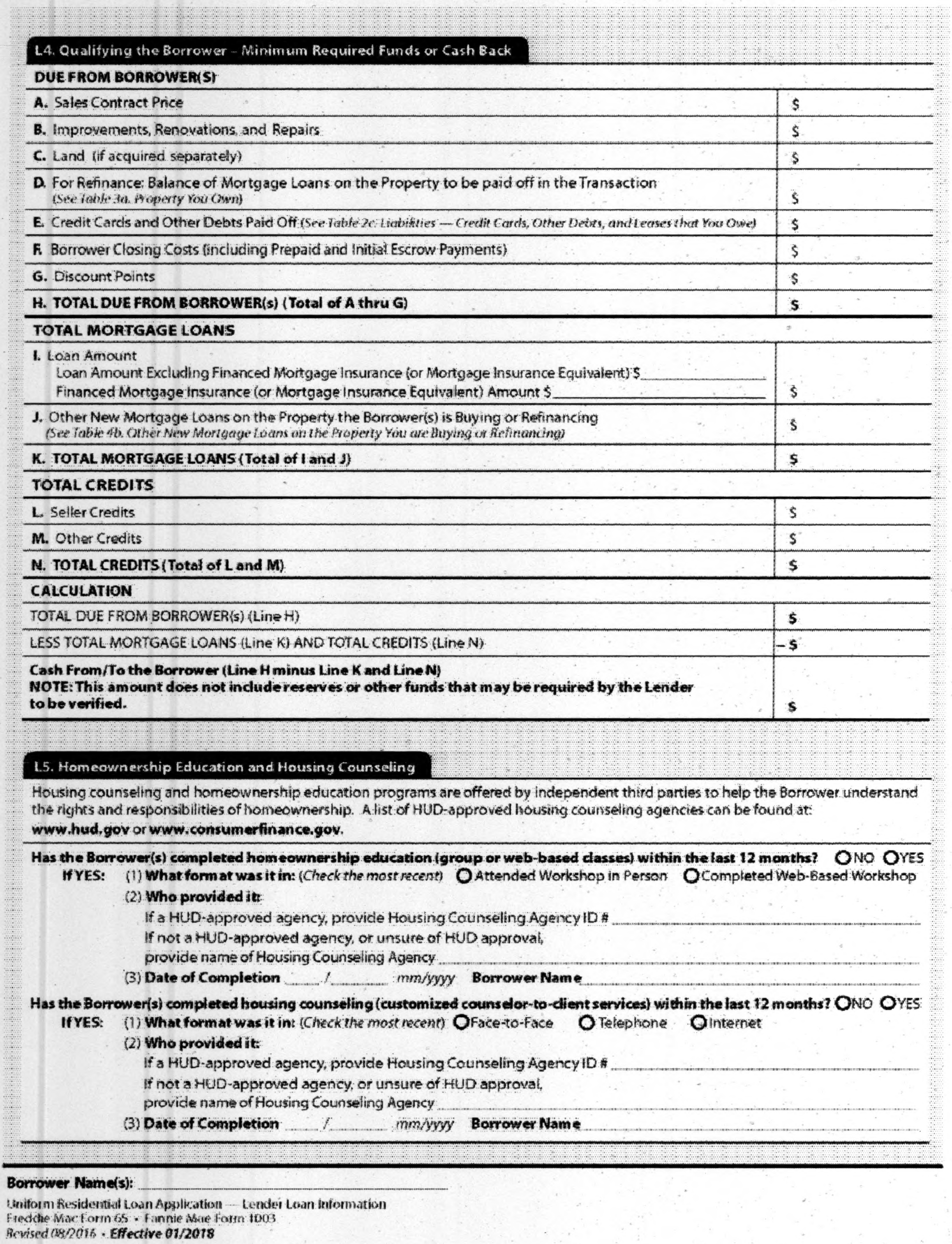
Loan Features
☐ Balloon / Balloon Term ______ *(months)*
☐ Interest Only / Interest Only Term ______ *(months)*
☐ Negative Amortization
☐ Prepayment Penalty / Prepayment Penalty Term ______ *(months)*
☐ Temporary Interest Rate Buydown / Initial Buydown Rate ____ %
☐ Other *(explain)*: ______

Proposed Monthly Payment for Property

First Mortgage (P & I)	$ ______
Subordinate Lien(s) (P & I)	$ ______
Homeowner's Insurance	$ ______
Supplemental Property Insurance	$ ______
Property Taxes	$ ______
Mortgage Insurance	$ ______
Association/Project Dues (*Condo, Co-Op, PUD*)	$ ______
Other	$ ______
TOTAL	**$** ______

Borrower Name(s): ______

Uniform Residential Loan Application — Lender Loan Information
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***



L4. Qualifying the Borrower – Minimum Required Funds or Cash Back

DUE FROM BORROWER(S)	
A. Sales Contract Price	$
B. Improvements, Renovations, and Repairs	$
C. Land (if acquired separately)	$
D. For Refinance: Balance of Mortgage Loans on the Property to be paid off in the Transaction *(See Table 3a. Property You Own)*	$
E. Credit Cards and Other Debts Paid Off *(See Table 2c. Liabilities — Credit Cards, Other Debts, and Leases that You Owe)*	$
F. Borrower Closing Costs (including Prepaid and Initial Escrow Payments)	$
G. Discount Points	$
H. TOTAL DUE FROM BORROWER(s) (Total of A thru G)	**$**
TOTAL MORTGAGE LOANS	
I. Loan Amount Loan Amount Excluding Financed Mortgage Insurance (or Mortgage Insurance Equivalent) $ ________ Financed Mortgage Insurance (or Mortgage Insurance Equivalent) Amount $ ________	$
J. Other New Mortgage Loans on the Property the Borrower(s) is Buying or Refinancing *(See Table 4b. Other New Mortgage Loans on the Property You are Buying or Refinancing)*	$
K. TOTAL MORTGAGE LOANS (Total of I and J)	**$**
TOTAL CREDITS	
L. Seller Credits	$
M. Other Credits	$
N. TOTAL CREDITS (Total of L and M)	**$**
CALCULATION	
TOTAL DUE FROM BORROWER(s) (Line H)	**$**
LESS TOTAL MORTGAGE LOANS (Line K) AND TOTAL CREDITS (Line N)	**– $**
Cash From/To the Borrower (Line H minus Line K and Line N) **NOTE: This amount does not include reserves or other funds that may be required by the Lender to be verified.**	**$**

L5. Homeownership Education and Housing Counseling

Housing counseling and homeownership education programs are offered by independent third parties to help the Borrower understand the rights and responsibilities of homeownership. A list of HUD-approved housing counseling agencies can be found at: **www.hud.gov** or **www.consumerfinance.gov.**

Has the Borrower(s) completed homeownership education (group or web-based classes) within the last 12 months? ○NO ○YES

If YES: (1) **What format was it in:** *(Check the most recent)* ○Attended Workshop in Person ○Completed Web-Based Workshop

(2) **Who provided it:**

If a HUD-approved agency, provide Housing Counseling Agency ID # ________________

If not a HUD-approved agency, or unsure of HUD approval,
provide name of Housing Counseling Agency ________________

(3) **Date of Completion** ____ / ______ *mm/yyyy* **Borrower Name** ________________

Has the Borrower(s) completed housing counseling (customized counselor-to-client services) within the last 12 months? ○NO ○YES

If YES: (1) **What format was it in:** *(Check the most recent)* ○Face-to-Face ○Telephone ○Internet

(2) **Who provided it:**

If a HUD-approved agency, provide Housing Counseling Agency ID # ________________

If not a HUD-approved agency, or unsure of HUD approval,
provide name of Housing Counseling Agency ________________

(3) **Date of Completion** ____ / ______ *mm/yyyy* **Borrower Name** ________________

Borrower Name(s): ________________________

Uniform Residential Loan Application — Lender Loan Information
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***

To be completed by the ***Lender:***
Lender Loan No./Universal Loan Identifier ______________________ Agency Case No. ____________

Uniform Residential Loan Application — Continuation Sheet

Continuation Sheet **Use this continuation sheet if you need more space to complete the Uniform Residential Loan Application.**

Borrower Name *(First, Middle, Last, Suffix)* ______________________

Additional Information

Additional Borrower Name *(First, Middle, Last, Suffix)* ______________________

Additional Information

I/We fully understand that it is a federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of federal law (18 U.S.C. §§ 1001 *et seq.*).

Borrower Signature ______________________ Date *(mm/dd/yyyy)* ____/____/____

Borrower Signature ______________________ Date *(mm/dd/yyyy)* ____/____/____

Demographic Information Addendum.

This section asks about your ethnicity, sex, and race.

Demographic Information of Borrower

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, federal law requires that we ask applicants for their demographic information (ethnicity, sex, and race) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. **The law provides that we may not discriminate** on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, federal regulations require us to note your ethnicity, sex, and race on the basis of visual observation or surname. The law also provides that we may not discriminate on the basis of age or marital status information you provide in this application.

Instructions: You may select one or more "Hispanic or Latino" origins and one or more designations for "Race." If you do not wish to provide some or all of this information, select the applicable check box.

Ethnicity

☐ Hispanic or Latino
  ☐ Mexican ☐ Puerto Rican ☐ Cuban
  ☐ Other Hispanic or Latino – *Enter origin:*
  ____
  Examples: Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, etc.
☐ Not Hispanic or Latino
☐ I do not wish to provide this information

Sex

☐ Female
☐ Male
☐ I do not wish to provide this information

Race

☐ American Indian or Alaska Native – *Enter name of enrolled or principal tribe:* ____________________
☐ Asian
  ☐ Asian Indian ☐ Chinese ☐ Filipino
  ☐ Japanese ☐ Korean ☐ Vietnamese
  ☐ Other Asian – *Enter race:* ____________________
  Examples: Hmong, Laotian, Thai, Pakistani, Cambodian, etc.
☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander
  ☐ Native Hawaiian ☐ Guamanian or Chamorro ☐ Samoan
  ☐ Other Pacific Islander – *Enter race:*
  ____
  Examples: Fijian, Tongan, etc.
☐ White
☐ I do not wish to provide this information

To Be Completed by Financial Institution (*for application taken in person*):

Was the ethnicity of the Borrower collected on the basis of visual observation or surname?	○ NO ○ YES
Was the sex of the Borrower collected on the basis of visual observation or surname?	○ NO ○ YES
Was the race of the Borrower collected on the basis of visual observation or surname?	○ NO ○ YES

The Demographic Information was provided through:

☐ Face-to-Face Interview (*includes Electronic Media w/ Video Component*) ☐ Telephone Interview ☐ Fax or Mail ☐ Email or Internet

Borrower Name: ____________________

Uniform Residential Loan Application
Freddie Mac Form 65 • Fannie Mae Form 1003
Revised 08/2016 • ***Effective 01/2018***

Dated: September 23, 2016.

David Silberman,

Associate Director, Division of Research, Markets, and Regulations, Bureau of Consumer Financial Protection.

[FR Doc. 2016–23555 Filed 9–28–16; 8:45 am]

BILLING CODE 4810–AM–C

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled the AmeriCorps NCCC Medical and Mental Health Information Form for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Tara Lind-Zajac, at 202–606–6702 or email to *TLindZajac@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

DATES: Comments may be submitted, identified by the title of the information collection activity, within October 31, 2016.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on Wednesday, May 18, 2016, at 81 FR 31227. This comment period ended July 18, 2016. No public comments were received from this Notice.

Description: The AmeriCorps NCCC Medical and Mental Health Information Form will be used to assess whether an individual has the physical and mental capacity required to perform the essential functions of the AmeriCorps NCCC member position, with or without reasonable accommodation, for which he or she is otherwise eligible.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: AmeriCorps NCCC Medical and Mental Health Information Form.

OMB Number: New.

Agency Number: None.

Affected Public: Applicants to AmeriCorps NCCC.

Total Respondents: Approximately 8,500 per year.

Frequency: Once per completed NCCC application.

Average Time per Response: Averages 15 minutes.

Estimated Total Burden Hours: 2,125 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Charles Davenport,

Director of Recruitment, Selection, and Placement.

[FR Doc. 2016–23487 Filed 9–28–16; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Monday, October 3, 2016, 3:00 p.m.–4:30 p.m. (ET).

PLACE: Corporation for National and Community Service, 250 E Street SW., Suite 4026, Washington, DC 20525 (Please go to the first floor lobby reception area for escort).

CALL-IN INFORMATION: This meeting is available to the public through the following toll-free call-in number: 888–847–7598 conference call access code number 7964995. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and CNCS will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Replays are generally available one hour after a call ends. The toll-free phone number for the replay is 866–367–6912. TTY: 800–833–3722. The end replay date is November 3, 2016 at 10:59 p.m. (CT).

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Welcome and Call the Meeting to Order

II. CEO's Welcome and Report

III. National Service Programs Report

IV. Office of External Affairs Report

V. Public Comments

VI. Chair Adjourns Meeting

Members of the public who would like to comment on the business of the Board must do so in writing or in person. Individuals may submit written comments to *dpremo@cns.gov* subject line: OCTOBER 2016 CNCS BOARD MEETING by 3:00 p.m. (ET) on September 29, 2016. Individuals attending the meeting in person who would like to comment will be asked to sign-in upon arrival. Comments are requested to be limited to 2 minutes.

REASONABLE ACCOMMODATIONS: The Corporation for National and Community Service provides reasonable accommodations to individuals with disabilities where appropriate. Anyone who needs an interpreter or other accommodation should notify David Premo at *dpremo@cns.gov* or 202–606–6717 by 3 p.m. (ET) on September 29, 2016.

CONTACT PERSON FOR MORE INFORMATION: Dave Premo, Program Support Specialist, Corporation for National and Community Service, 250 E Street SW., Washington, DC 20525. Phone: 202–606–6717. Fax: 202–606–3460. TTY: 800–833–3722. Email: *dpremo@cns.gov.*

Dated: September 27, 2016.

Jeremy Joseph,

General Counsel.

[FR Doc. 2016–23673 Filed 9–27–16; 4:15 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board of Visitors to the U.S. Air Force Academy ("the Board").

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The charter and contact information for the Board's Designated Federal Officer (DFO) can be obtained at *http://www.facadatabase.gov/*. The Board shall provide to the Secretary of Defense and the Deputy Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives independent advice and recommendations on the morale, discipline, and social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider. The Board shall recommend appropriate action. The Board shall be constituted annually and composed of 15 members: a. Six persons designated by the President, at least two of whom shall be graduates of the Academy; b. The Chair of the House Committee on Armed Services, or designee; c. Four persons designated by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives and the fourth of whom may not be a member of the House of Representatives; d. The Chair of the Senate Committee on Armed Services, or designee; and e. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Senate Committee on Appropriations. Board members who are full-time or permanent part-time Federal officers or employees shall be appointed as regular government employee (RGE) members pursuant to 41 CFR 102–3.130(a). Board members designated by the President or the Congress, who are not full-time or permanent part-time Federal officers or employees, shall be appointed as experts or consultants to serve as special government employee (SGE) members pursuant to 5 U.S.C. 3109. Except for reimbursement of official Board-related travel and per diem, members serve without compensation. The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Board. All written statements must be submitted to the Board's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: September 26, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–23573 Filed 9–28–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2013–OS–0068]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Request for Armed Forces Participation in Public Events (Non-Aviation), DD Form 2536 and Request for Military Aerial Support, DD Form 2535; OMB Control Number 0704–0290.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 51,000.

Responses per Respondent: 1.

Annual Responses: 51,000.

Average Burden per Response: 0.75 hours.

Annual Burden Hours: 17,850.

Needs and Uses: This information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community relations support and to determine whether request military assets are available.

Affected Public: Not-for-profit institutions; business or other for-profit; state local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal**

Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: September 26, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–23533 Filed 9–28–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0105]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Subpart J—Approval of Independently Administered Tests

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 28, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0105. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Subpart J—Approval of Independently Administered Tests.

OMB Control Number: 1845–0049.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households; Private Sector.

Total Estimated Number of Annual Responses: 48,779.

Total Estimated Number of Annual Burden Hours: 6,340.

Abstract: This request is for revision of the approval of the reporting and record-keeping requirements that are contained in the information collection 1845–0049 for Student Assistance General Provision regulations Subpart J—Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process. These regulations govern the application for and approval by the Secretary of assessments by a private test publisher or State that are used to measure a student's skills and abilities. The administration of approved ability to benefit (ATB) tests may be used to determine a student's eligibility for assistance for the Title IV student financial assistance programs authorized under the Higher Education Act of 1965, as amended (HEA) when, among other conditions, the student does not have a high school diploma or its recognized equivalent. The language of the current regulations has not changed.

Dated: September 26, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–23583 Filed 9–28–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–110–000]

Southwest Power Pool, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 23, 2016, the Commission issued an order in Docket No. EL16–110–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether section 34.6 of the Open Access Transmission Tariff of Southwest Power Pool, Inc. may be unjust, unreasonable, unduly discriminatory or preferential. *Southwest Power Pool, Inc.*, 156 FERC ¶ 61,217 (2016).

The refund effective date in Docket No. EL16–110–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL16–110–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: September 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23543 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–187–000.
Applicants: Quantum Pasco Power, LP, Rockland Pasco Holdings, LLC.
Description: Joint Application of Quantum Pasco Power, LP, et. al. for Authorization of Disposition of Jurisdictional Facilities Under Section 203 of the FPA and Requests for Waivers, Expedited Action and Privileged Treatment.
Filed Date: 9/23/16.
Accession Number: 20160923–5248.
Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: EC16–188–000.
Applicants: Bluco Energy, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of BluCo Energy, LLC.
Filed Date: 9/23/16.
Accession Number: 20160923–5261.
Comments Due: 5 p.m. ET 10/14/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2298–001.
Applicants: Duke Energy Kentucky, Inc.
Description: Tariff Amendment: Revised DEK Rate Schedule No. 14 to be effective 10/1/2016.
Filed Date: 9/23/16.
Accession Number: 20160923–5180.
Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2653–000.
Applicants: Cimarron Bend Wind Project I, LLC.
Description: Baseline eTariff Filing: MBR Tariff to be effective 11/10/2016.
Filed Date: 9/23/16.
Accession Number: 20160923–5114.
Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2654–000.
Applicants: City Point Energy Center, LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 12/31/9998.
Filed Date: 9/23/16.
Accession Number: 20160923–5183.
Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2655–000.
Applicants: Southwestern Public Service Company.
Description: §205(d) Rate Filing: SPS–GSEC–Ltr Agrmt–676–0.1.0–NOC to be effective 11/22/2016.
Filed Date: 9/23/16.
Accession Number: 20160923–5201.
Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2656–000.

Applicants: Arizona Public Service Company.

Description: §205(d) Rate Filing: OATT Administrative Filing to be effective 11/23/2016.

Filed Date: 9/23/16.

Accession Number: 20160923–5240.

Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2657–000.

Applicants: Duke Energy Florida, LLC.

Description: §205(d) Rate Filing: Cost-Based Power Sales Agreements to be effective 12/1/2016.

Filed Date: 9/23/16.

Accession Number: 20160923–5276.

Comments Due: 5 p.m. ET 10/14/16.

Docket Numbers: ER16–2658–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Cancellation: Notice of Termination of PG&E OATT and BART Agreements to be effective 12/31/2016.

Filed Date: 9/23/16.

Accession Number: 20160923–5300.

Comments Due: 5 p.m. ET 10/14/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23542 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD16–6–000]

North American Electric Reliability Corporation; Order Approving Reliability Standards

Before Commissioners: Norman C. Bay, Chairman; Cheryl A. LaFleur, Tony Clark, and Colette D. Honorable

1. On May 26, 2016, the North American Electric Reliability Corporation (NERC) submitted a petition seeking approval of proposed Reliability Standards IRO–018–1 (Reliability Coordinator Real-time Reliability Monitoring and Analysis Capabilities) and TOP–010–1 (Real-time Reliability Monitoring and Analysis Capabilities). As discussed in this order, the Commission approves Reliability Standards IRO–018–1 and TOP–010–1 and NERC's proposed implementation plan, violation severity levels and, with the exceptions identified below, violation risk factors.

2. The Commission, as discussed below, directs NERC to submit a compliance filing within 60 days of the date of this order to modify the violation risk factor designations for Requirement R1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1 to "high."

I. Background and NERC Petition

3. The Commission certified NERC as the Electric Reliability Organization, as defined in section 215 of the Federal Power Act (FPA),[1] in July 2006.[2] In Order No. 693, the Commission approved 83 of 107 proposed Reliability Standards submitted by NERC, including the original Transmission Operations (TOP) and Interconnection Reliability Operations and Coordination (IRO) Reliability Standards. The Commission also directed NERC to address issues with respect to the TOP and IRO Reliability Standards regarding monitoring and analysis capabilities.

4. NERC contends that the proposed Reliability Standards address: (1) The directives in Order No. 693 requiring operators to have a minimum set of capabilities; (2) recommendations contained in the NERC Operating Committee Real-time Tools Best

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[1] 16 U.S.C. 824o(d) (2012).

[2] *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *order on compliance*, 118 FERC ¶ 61,190, *order on reh'g* 119 FERC ¶ 61,046 (2007), *rev. denied sub nom. Alcoa Inc.* v. *FERC*, 564 F.3d 1342 (D.C. Cir. 2009).

Practices Task Force Report published in 2008; and (3) a recommendation from the joint Commission-NERC report on the 2011 Arizona-Southern California outage. NERC explains that it developed the proposed Reliability Standards to improve real-time situational awareness capabilities and enhance reliable operations by requiring reliability coordinators, transmission operators, and balancing authorities to provide operators with awareness of monitoring and analysis capabilities, including alarm availability, so that operators may take appropriate steps to protect reliability. NERC states that the 2003 Blackout Report identified inadequate situational awareness as one of the key causes of that blackout, leading to a recommendation (Recommendation 22) for the evaluation of existing and adoption of new and better real-time tools for transmission operators and reliability coordinators. NERC adds that a recommendation (Recommendation 12) from the joint report on the 2011 Arizona-Southern California outage provided that entities "should take measures to ensure their real-time tools are adequate, operational, and run frequently enough to provide their operators the situational awareness necessary to identify and plan for contingencies and reliably operate their systems."

5. NERC states that, while existing Reliability Standards contain requirements to perform monitoring and real-time assessments, proposed Reliability Standards IRO–018–1 and TOP–010–1 build on these requirements to support effective situational awareness. NERC explains that the proposed Reliability Standards accomplish this by requiring applicable entities to: (1) Provide notification to operators of real-time monitoring alarm failures; (2) provide operators with indications of the quality of information being provided by their monitoring and analysis capabilities; and (3) address deficiencies in the quality of information being provided by their monitoring and analysis capabilities.

6. Specifically, NERC states that proposed Reliability Standards IRO–018–1, Requirement R3 and TOP–010–1, Requirement R4 address situational awareness objectives by providing for operator awareness when key alarming tools are not performing as intended. Proposed Reliability Standard IRO–018–1, Requirement R3 requires reliability coordinators to have an alarm process monitor that provides notification to system operators when the failure of a real-time monitoring alarm processor has occurred. Proposed Reliability Standard TOP–010–1, Requirement R4 contains an identical requirement applicable to transmission operators and balancing authorities.

7. In addition, NERC states that proposed Reliability Standard IRO–018–1, Requirement R1 obligates each reliability coordinator to implement an operating process or procedure to address the quality of the real-time data necessary to perform its real-time monitoring and real-time assessments. Proposed Reliability Standard TOP–010–1, Requirement R1 contains identical requirements applicable to transmission operators; Requirement R2 requires the same of balancing authorities.

8. Further, NERC explains that Reliability Standards IRO–018–1, Requirement R2 and TOP–010–1, Requirement R3 ensure that reliability coordinators and transmission operators, respectively, implement operating processes or procedures to address issues related to the quality of the analysis used in real-time assessments.

9. NERC submits that proposed Reliability Standards IRO–018–1 and TOP–010–1, together with other currently-effective and Commission-approved IRO and TOP Reliability Standards address the relevant reliability concerns underlying the Commission's Order No. 693 directives requiring operators to have a minimum set of capabilities. NERC's implementation plan provides that the proposed Reliability Standards would become effective the first day of the first calendar quarter that is 18 months following Commission approval.

II. Notice of Filing and Responsive Pleading

10. Notice of NERC's Petition was published on June 8, 2016 in the **Federal Register**, 81 FR 36,910 (2016), with comments, protests and motions to intervene due on or before June 22, 2016. Dominion Resources Services, Inc. (Dominion) filed a timely motion to intervene.

III. Discussion

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2016), the timely motion to intervene filed by Dominion serves to make it a party to this proceeding.

A. Reliability Standards IRO–018–1 and TOP–010–1

12. Pursuant to section 215(d)(2) of the FPA, the Commission approves Reliability Standards IRO–018–1 and TOP–010–1 as just, reasonable, not unduly discriminatory or preferential and in the public interest. Reliability Standards IRO–018–1 and TOP–010–1 improve real-time situational awareness capabilities and enhance reliable operations by requiring reliability coordinators, transmission operators, and balancing authorities to provide operators with an improved awareness of system conditions analysis capabilities, including alarm availability, so that operators may take appropriate steps to ensure reliability. The Reliability Standards accomplish this by requiring that applicable entities provide notification to operators of real-time system awareness and monitoring alarm failures. We agree with NERC that requiring applicable entities to implement operating processes or operating procedures governing the quality of the information they are providing on monitoring and analysis capabilities will enhance reliability. Further, we determine that Reliability Standards IRO–018–1 and TOP–010–1, together with existing Commission-approved Reliability Standards, adequately address the relevant directives in Order No. 693. We also approve NERC's proposed implementation plan, violation severity levels and, with the exceptions discussed below, violation risk factors.

B. Violation Risk Factors

13. On May 18, 2007, the Commission established guidelines for determining whether to approve violation risk factors proposed by NERC.[3] The Commission identified the following five factors for evaluating violation risk factors: (1) Consistency with the conclusions of the 2003 Blackout Report; (2) consistency within a Reliability Standard, (3) consistency among Reliability Standards with similar requirements; (4) consistency with NERC's definition of the violation risk factor level; and (5) assignment of violation risk factor levels to those requirements in certain Reliability Standards that co-mingle a higher risk reliability objective and a lower risk reliability objective.[4]

14. NERC contends that it is appropriate, under the Commission's guidelines, to assign "medium" violation risk factors to Requirement R1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1. Regarding the

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[3] *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,145, *order on reh'g*, 120 FERC ¶ 61,145 (2007); *North American Electric Reliability Corp.*, 123 FERC ¶ 61,284, at PP 20–35, *order on reh'g & compliance*, 125 FERC ¶ 61,212 (2008); *North American Electric Reliability Corp.*, 135 FERC ¶ 61,166 (2011).

[4] *North American Electric Reliability Corp.*, 119 FERC ¶ 61,145 at P 16.

first guideline, NERC maintains that the requirements are not directly connected to the conclusions or critical areas identified in the 2003 Blackout Report but, rather, address specific recommendations from a NERC technical committee.

15. NERC also contends that a "medium" violation risk factor for these requirements satisfies the second and third guidelines because it is consistent within the Reliability Standards and among other Reliability Standards with similar requirements. Specifically, NERC states that a "medium" violation risk factor comports with the second guideline because the Reliability Standards contain similar responsibilities for different applicable entities. NERC also explains that such a designation is consistent with other Reliability Standards that involve effective monitoring and control of the bulk electric system. As examples, NERC points to "medium" violation risk factor designations for Reliability Standards TOP–003–3, Requirement R5 and IRO–010–2, Requirement R3, which provide that applicable entities shall provide the data necessary for transmission operators and reliability coordinators to perform real-time monitoring and real-time assessments. In addition, NERC cites Reliability Standard TOP–001–3, Requirement R9, which requires transmission operators and balancing authorities to notify reliability coordinators and others of planned and unplanned outages of monitoring and assessment capabilities, which has also been assigned a "medium" violation risk factor.

16. NERC contends that the proposed designations are also consistent with NERC's definition of "medium" violation risk factor, and thus consistent with the fourth Commission guideline. NERC explains that the purpose of these Reliability Standards is to address recommendations regarding real-time situational awareness and to require entities to take steps to address data or analysis quality concerns to the extent that it affects their ability to perform real-time monitoring and analysis. NERC believes that violation of any of these requirements could directly affect the ability to effectively monitor and control the bulk electric system, but is unlikely to lead to bulk electric system instability, separation, or cascading failures.

17. With respect to the fifth guideline, NERC states that the proposed violation risk factor assignments do not reflect the lower of multiple reliability objectives as each applicable requirement contains one reliability objective.

18. We determine that the "medium" violation risk factors NERC proposes to assign to Requirement R1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1 are not consistent with the Commission's guidelines. As discussed below, NERC has not adequately justified the proposed "medium" violation risk factor designations. Specifically, we find that the proposed designations are inconsistent with NERC's definition of violation risk factor; the recommendations contained in the 2003 Blackout Report; and other Reliability Standards with similar requirements. Accordingly, we direct NERC to raise these violation risk factor designations to "high."

19. The fourth Commission guideline calls for consistency with NERC's definition of the appropriate violation risk factor level.[5] The Commission-approved NERC definition for "high" violation risk factor states, in pertinent part, that a requirement should be "high" if a violation of the requirement "could place the bulk electric system at an unacceptable risk of instability, separation or cascading failures." In contrast, the Commission-approved NERC definition of "medium" violation risk factor provides that the violation of the underlying requirement "could directly affect the electrical state or the capability of the Bulk Electric System, or the ability to effectively monitor and control the Bulk Electric System . . . [but] is unlikely to lead to Bulk Electric System instability, separation, or cascading failures." While NERC states that violation of any of the requirements could directly affect the ability to effectively monitor and control the bulk electric system, NERC contends that violation of these requirements is unlikely to lead to bulk electric system instability, separation, or cascading failures.

20. NERC's assertion that a violation of Requirement R1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1 is unlikely to lead to bulk electric system instability, separation, or cascading failures is unpersuasive. The 2003 Blackout Report identified four groups of causes of the blackout, one of which was failure of the interconnected transmission network's reliability organizations to provide effective real-time diagnostic support.[6] As NERC noted in its petition, Recommendation 22 of the 2003 Blackout Report stated that NERC should "evaluate . . . the real-time operating tools necessary for reliability [sic] operation and reliability coordination, including backup capabilities . . . ."[7] The 2003 Blackout Report also stated that NERC should require its Operating Committee to "give particular attention in its report to the development of guidance to control areas and reliability coordinators on the use of wide-area situation display systems and the integrity of data used in those systems."[8] Real-time data quality is essential to ensure reliable operation of the interconnected transmission network. Given the importance of effective real-time diagnostic support recognized by NERC's Operating Committee and consistent with the 2003 Blackout Report, we conclude that first and fourth Commission guidelines support raising the violation risk factor designations for Requirement 1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1 to "high."

21. Regarding the third guideline, existing Reliability Standards require real-time monitoring and assessments by reliability coordinators (IRO–002–4 and IRO–008–2), transmission operators (TOP–001–3), and balancing authorities (TOP–001–3). Reliability Standards IRO–002–4, Requirements R3 and R4, IRO–008–2, Requirement R4, and TOP–001–3, Requirement R13 require monitoring and analysis of the bulk electric system and have "high" violation risk factors. The requirements of Reliability Standards IRO–018–1 and TOP–010–1 are designed to ensure the accuracy of the data used in these existing Reliability Standards to perform the required monitoring and analysis activities of the bulk electric system. The quality of the data is an essential element of the monitoring and analysis process.[9] Accordingly, it would be incongruous to designate requirements mandating monitoring and assessments as "high" while designating requirements meant to ensure the accuracy of the data on which those assessments rely with a lower "medium" violation risk factor.

22. We are not persuaded by NERC's reliance on the violation risk factors in existing Reliability Standards TOP–003–3 and IRO–010–2 to support assigning a "medium" violation risk factor to

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[5] *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,145 at PP 28–31.

[6] U.S.-Canada Power System Outage Task Force, Final Blackout Report (April 2004) at 18, *http://www.ferc.gov/industries/electric/indus-act/reliability/blackout/ch1-3.pdf.*

[7] *Id.* at 159 (Recommendation 22).

[8] *Id.*

[9] NERC Petition at 14 ("maintaining adequate situational awareness is essential for the reliable operation of the Bulk Power System . . . situational awareness means 'ensuring that accurate information on current system conditions . . . is continuously available . . .' ").

Requirement 1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1. Reliability Standards TOP–003–3 and IRO–010–2 address documentation and specification of data.[10] In contrast, Reliability Standards IRO–018–1, Requirement R1 and TOP–010–1, Requirements R1 and R2 go beyond documentation and specification of data and require the development of an operating process or operating procedure to evaluate "the quality of the Real-time data necessary to perform [ ] Real-time data monitoring and Real-time Assessments or analysis functions."[11] This distinction justifies assigning a higher violation risk factor to Reliability Standards IRO–018–1, Requirement R1 and TOP–010–1, Requirements R1 and R2.

23. Nor are we persuaded by NERC's citation of a "medium" violation risk factor for Reliability Standard TOP–001–3, Requirement R9. This requirement mandates that each transmission operator and balancing authority notify its reliability coordinator and known impacted interconnected entities of, among other things, all planned outages, and unplanned outages of 30 minutes or more, for monitoring and assessment capabilities, and associated communication channels between the affected entities. This is a notification requirement, not a real-time performance requirement. The notified entity already is subject to performance requirements relating to its real-time monitoring and assessment capabilities.

IV. Information Collection Statement

24. The Paperwork Reduction Act (PRA) requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.[12] OMB regulations require approval of certain information collection requirements imposed by agency rules.[13] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

25. The Commission will submit the information collection requirements to OMB for its review and approval. The Commission solicits public comments on its need for this information, whether the information will have practical utility, the accuracy of burden and cost estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Comments are due November 28, 2016.

26. The Commission is approving the proposed Reliability Standards IRO–018–01 (Reliability Coordinator Real-time Reliability Monitoring and Analysis Capabilities, associated with FERC–725Z (Mandatory Reliability Standards: IRO Reliability Standards)) and TOP–010–1 (Real-time Reliability Monitoring and Analysis Capabilities, associated with FERC–725A (Mandatory Reliability Standards for the Bulk Power System)).

27. The Commission finds that the new TOP and IRO Reliability Standards improve reliability by providing rigorous functional requirements for real-time monitoring and analysis. Reliability Standards IRO–018–1 and TOP–010–1 were created to improve real-time situational awareness capabilities and enhance reliable operations by requiring reliability coordinators, transmission operators, and balancing authorities to provide operators with awareness of monitoring and analysis capabilities, including alarm availability, so that entities may take appropriate steps to ensure reliability.

28. The Commission approves Reliability Standards IRO–018–1 and TOP–010–1, which enhance reliability by accomplishing Blackout Report Recommendation 22 to evaluate and adopt better real-time tools for operators and reliability coordinators and establish requirements to perform real-time monitoring and analysis capabilities to support reliable system operations. The new Reliability Standards build upon existing requirements to support effective real-time monitoring and analysis and improved situational awareness, and thereby enhance reliable operations. Reliability Standard IRO–018–1 is applicable to reliability coordinators. Reliability Standard TOP–010–1 applies to transmission operators and balancing authorities.

Public Reporting Burden: The new TOP and IRO Reliability Standards require applicable entities to provide notification to operators of real-time monitoring of alarm failures. The new standards also require applicable entities to implement operating processes or operating procedures to: (i) Provide operators with indication(s) of the quality of information being provided by their monitoring and analysis capabilities; and (ii) address deficiencies in the quality of information being provided by their monitoring and analysis capabilities. Our estimates regarding the number of respondents are based on the NERC Compliance Registry as of April 21, 2016. According to the NERC Compliance Registry, there are 11 reliability coordinators, 100 balancing authorities and 171 transmission operators registered. The additional estimated burden and cost related to the changes in Docket No. RD16–6 are as follows:

FERC–725Z—CHANGES DUE TO RELIABILITY STANDARD IRO–018–1

Entity	Requirements and period	Number of respondents[14]	Annual number of responses per respondent	Total number of responses	Average burden and cost per response[15]	Total annual burden hours and total annual cost	Cost per respondent ($)
		(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
RC[16]	Year 1 Implementation (reporting)	11	1	11	60 hrs.; $3,852.00	660 hrs.; $42,372.00	$3,852.00
	Starting in Year 2 (annual reporting).	11	1	11	32 hrs.; $2,054.40	352 hrs.; $22,598.40	2,054.40
	Annual Record Retention	11	1	11	2 hrs.; $75.38	22 hrs.; $829.18	75.38

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[10] The data specifications in Reliability Standards TOP–003–2, Requirement R5 and IRO–010–2, Requirement R3, cited by NERC, are for "mutually agreeable" formats, processes for resolving conflicts, and security protocols. These mutually agreeable procedural aspects likely would not be developed in Real-time.

[11] NERC Petition at 18. NERC emphasizes the importance of the quality of this type of data by noting that "[e]ntities continue to address lower-priority data quality issues (*i.e.,* data quality issues not affecting Real-time monitoring or analysis) according to their operating practices." *Id.*

[12] 44 U.S.C. 3507(d) (2012).

[13] 5 CFR 1320 (2016).

FERC–725Z—CHANGES DUE TO RELIABILITY STANDARD IRO–018–1—Continued

Entity	Requirements and period	Number of respondents [14] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [15] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Total burden hrs. per year						682 hrs. in Year 1; 374 hrs. per year starting in Year 2.	

FERC–725A—CHANGES DUE TO TOP–010–1 IN DOCKET NO. RD16–6–000

Entity	Requirements and period	Number of respondents [17] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [18] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
BA [19]	Year 1 Implementation (reporting)	100	1	100	70 hrs.; $4,494.00	7,000 hrs.; $449,400.00	$4,494.00
	Starting in Year 2 (annual reporting).	100	1	100	42 hrs.; $2,696.40	4,200 hrs.; $269,640.00	2,696.40
TOP [20]	Year 1 implementation (reporting)	171	1	171	70 hrs.; $4,494.00	11,970 hrs.; $768,474.00.	4,494.00
	Starting in Year 2 (annual reporting).	171	1	171	40 hrs. $2,568.00	6,840 hrs.; $439,128.00	2,568.00
BA/TOP	Annual Record Retention	271	1	271	2 hrs $75.38	542 hrs. $20,427.98	75.338
Total burden hours per year						19,512 hrs. in Year 1; 11,582 hrs. per year, starting in Year 2.	

29. The Commission finds that that the new standards clarify and improve upon the currently-effective TOP and IRO Reliability Standards by designating requirements in the new standards that apply to transmission operators and balancing authorities for the TOP standards and reliability coordinators for the IRO standards. Thus, the Commission finds that there are benefits to clarifying and bringing efficiencies to the TOP and IRQ Reliability Standards, consistent with the Commission's policy promoting increased efficiencies in Reliability Standards and reducing requirements that are either redundant with other currently-effective requirements or have little reliability benefit.

Title: FERC–725Z (Mandatory Reliability Standards: IRO Reliability Standards) and FERC–725A (Mandatory Reliability Standards for the Bulk-Power System).

Action: Proposed revisions to existing information collections.

OMB Control No: 1902–0276 (FERC–725Z); 1902–0244 (FERC–725A).

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One-time implementation and ongoing.

Necessity of the Information: Reliability Standards IRO–018–1 and TOP–010–1 enhance reliability by adopting better real-time tools for reliability coordinators, transmission operators, and balancing authorities and also establish requirements for real-time monitoring and analysis capabilities to support reliable system operations.

30. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov*, Phone: (202) 502–8663, fax: (202) 273–0873].

V. Effective Date

31. This order will become effective upon issuance.

The Commission orders:

(A) Reliability Standards IRO–018–1 and TOP–010–1 are hereby approved, as discussed in the body of this order.

(B) NERC is hereby directed to submit a compliance filing within 60 days of the date of this order designating the violation risk factors for Requirement R1 of Reliability Standard IRO–018–1 and Requirements R1 and R2 of Reliability Standard TOP–010–1 as "high," as discussed in the body of this order.

By the Commission.

Issued: September 22, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–23519 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

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[14] The number of respondents is the estimated number of entities for which there is a change in burden from the current standards to the proposed standards, not the total number of entities from the current or proposed standards that are applicable.

[15] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information, as of May 2015 (at *http://www.bls.gov/oes/current/naics2_22.htm*, with updated benefits information for March 2016 at *http://www.bls.gov/news.release/ecec.nr0.htm*), for an electrical engineer (code 17–2071, $64.20/hour), and for information and record clerks (code 43–4199, $37.69/hour). The hourly figure for engineers is used for reporting; the hourly figure for information and record clerks is used for document retention.

[16] The following Requirements and the associated measures apply to RCs: Requirement R1: A revised data specification and writing the required operating Process/Operating Procedure; Requirement R2: Quality monitoring logs and the data errors and corrective action logs; and Requirement R3: Alarm process monitor performance logs.

[17] The number of respondents is the number of entities in which a change in burden from the current standards to the proposed exists, not the total number of entities from the current or proposed standards that are applicable.

[18] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information, as of May 2015 (at *http://www.bls.gov/oes/current/naics2_22.htm*, with updated benefits information for March 2016 at *http://www.bls.gov/news.release/ecec.nr0.htm*), for an electrical engineer (code 17–2071, $64.20/hour), and for information and record clerks record keeper (code 43–4199, $37.69/hour). The hourly figure for engineers is used for reporting; the hourly figure for information and record clerks is used for document retention.

[19] The following Requirements and associated measures apply to balancing authorities: Requirement R1: A revised data specification and writing the required operating process/operating procedure; and Requirement R2: Quality monitoring logs and the data errors and corrective action logs.

[20] The following Requirements and associated measures apply to transmission operators: Requirement R1: A revised data specification and writing the required operating process/operating procedure; and Requirement R3: Alarm process monitor performance logs to maintain performance logs and corrective action plans.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–151–000.
Applicants: Raven Power Holdings LLC, C/R Energy Jade, LLC, Sapphire Power Holdings LLC, Talen Energy Corporation.
Description: Supplement to July 15, 2016 Joint Application of Talen Energy Corporation, et al., for Approval Pursuant to Section 203 of the Federal Power Act.
Filed Date: 9/22/16.
Accession Number: 20160922–5202.
Comments Due: 5 p.m. ET 10/3/16.

Docket Numbers: EC16–186–000.
Applicants: Drift Sand Wind Project, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, for Expedited Consideration and Confidential Treatment of Drift Sand Wind Project, LLC.
Filed Date: 9/22/16.
Accession Number: 20160922–5204.
Comments Due: 5 p.m. ET 10/13/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2645–000.
Applicants: Dan's Mountain Solar, LLC.
Description: Request for one-time, limited waiver, shortened comment period and expedited approval of Dan's Mountain Solar, LLC.
Filed Date: 9/22/16.
Accession Number: 20160922–5094.
Comments Due: 5 p.m. ET 10/6/16.

Docket Numbers: ER16–2651–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: AltaGas GSFA and GIA Name Change Filing (SA 24 and 46) to be effective 11/22/2016.
Filed Date: 9/22/16.
Accession Number: 20160922–5171.
Comments Due: 5 p.m. ET 10/13/16.

Docket Numbers: ER16–2652–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: Non-Conforming Large Generator Interconnection Agreements, Part 1 of 2 to be effective 9/29/2010.
Filed Date: 9/22/16.
Accession Number: 20160922–5178.
Comments Due: 5 p.m. ET 10/13/16.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR16–6–000.
Applicants: North American Electric Reliability Corporation.
Description: Supplemental Clarification Filing of the North American Electric Reliability Corporation Concerning Proposed 2017 Business Plans and Budgets of Northeast Power Coordinating Council, Inc. and ReliabilityFirst Corporation.
Filed Date: 9/23/16.
Accession Number: 20160923–5169.
Comments Due: 5 p.m. ET 9/30/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23541 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2643–000]

Panda Stonewall LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Panda Stonewall LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 13, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 23, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23544 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–437]

Grand River Dam Authority; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Article 401 reservoir elevation rule curve in order to keep reservoir levels in Grand Lake O' the Cherokees (Grand Lake) higher than normal from August 16 through October 31. As indicated in (k) below, this notice applies to an application to permanently change the rule curve, for the period from August 16 through October 31, each year.

b. *Project No.:* 1494–437.

c. *Date Filed:* May 6, 2016; supplemented June 2, 2016 and June 30, 2016.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Hydroelectric Project.

f. *Location:* The project is located on the Grand River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Tamara E. Jahnke, Assistant General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301–0409; telephone: (918) 256–5545.

i. *FERC Contact:* B. Peter Yarrington, telephone (202) 502–6129, email *peter.yarrington@ferc.gov,* or Jeremy Jessup, telephone (202) 502–6779, email *Jeremy.jessup@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail a copy to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–1494–437) on any comments or motions filed.

k. Description of Request: In its application, GRDA requests a permanent amendment of the project's Article 401 reservoir elevation rule curve, from August 16 through October 31, each year.

GRDA indicates that it seeks the rule curve change to reduce the risk of vessel groundings at Grand Lake in late summer, improve recreation during a peak recreation season, better balance competing stakeholder interests, and provide additional water storage so that, in the event of drought, water would be available for release to aid in maintaining water quality in the river downstream.

Under GRDA's proposal, between August 16 and September 15, the reservoir would be maintained at elevation 743 feet Pensacola Datum (PD), which is up to two feet higher than the current rule curve. Between September 16 and September 30, the elevation would be lowered from 743 to 742 feet PD. Between October 1 and October 31, the reservoir would be maintained at elevation 742 feet PD, which is up to one foot higher than the current rule curve. After October 31, reservoir elevations would follow the project's current rule curve. With its application, GRDA includes a Storm Adaptive Management Plan that would be followed to address high water conditions upstream and downstream of Grand Lake during major precipitation events in the river basin. GRDA also includes a Drought Adaptive Management Plan that would be followed to determine project operation, including deviations from the rule curve elevations, to allow releases for maintenance of downstream water quality and reliable operation of GRDA's downstream Salina Pumped Storage Project if certain drought conditions occur.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: September 22, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–23518 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–494–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Gulf Connector Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Gulf Connector Expansion Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Wharton, San Patricio, Hardin, and Victoria Counties, Texas. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before October 24, 2016.

If you sent comments on this project to the Commission before the opening of this docket on August 16, 2016, you will need to file those comments in Docket No. CP16–494–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a Transco representative may contact you about the acquisition of land to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, Transco could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Transco provided landowners with a fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister.*" If you are filing a comment on a particular project, please select "Comment on a Filing" as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP16–494–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Transco proposes to construct and operate new compressor stations and modify existing compressor stations in Texas. According to Transco, the Gulf Connector Expansion Project would provide about 475 million standard cubic feet of natural gas per day to liquefied natural gas terminals in Freeport Bay and Corpus Christi Bay, Texas.

The Gulf Connector Expansion Project would consist of the following facilities:

- A new compressor station to be known as Compressor Station 32 located in San Patricio County, Texas;
- piping and valve modifications at an existing compressor station known as Compressor Station 40 located in Hardin County, Texas;
- a new compressor station to be known as Compressor Station 17 located in San Patricio County, Texas;
- a new compressor station to be known as Compressor Station 23 located in Victoria County, Texas;
- piping and valve modifications at an existing compressor station known as Compressor Station 30 located in Wharton County, Texas;
- a new interconnection with Corpus Christi LNG located in San Patricio County, Texas; and
- use of a decommissioned compressor station known as Compressor Station 20 to be used as a construction storage yard.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 197 acres of land. Following construction, Transco would maintain about 46 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

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[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP16–494). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: September 22, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–23516 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–117–000]

Vote Solar Initiative, Montana Environmental Information Center v. Montana Public Service Commission; Notice of Complaint

Take notice that on September 19, 2016, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Vote Solar Initiative and Montana Environmental Information Center (collectively, Vote Solar) filed a formal complaint against Montana Public Service Commission (Respondent) alleging that Respondent violated section 210 of Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 824a–3, by suspending the standard rate for solar qualifying facilities with a nameplate capacity between 100 kW and 3 MW, all as more fully explained in the complaint.

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[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Vote Solar certifies that copies of the complaint were served on the contacts for the Montana Public Service Commission, on contacts for North Western Energy as listed on the Commission's list of Corporate Officials, and on other persons who may be affected by the complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 11, 2016.

Dated: September 22, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–23517 Filed 9–28–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9953–32–OA]

Notification of a Public Teleconference and Meeting of the Science Advisory Board Chemical Assessment Advisory Committee Augmented for the Review of EPA's Draft Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) IRIS Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces two meetings of the Chemical Assessment Advisory Committee Augmented for the Review of the Draft Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) IRIS Assessment (CAAC Augmented for RDX). A public teleconference will be held to learn about the development of the Agency's draft IRIS Toxicological Review of RDX (September, 2016) and to discuss draft charge questions for the peer review of the document. A face-to-face meeting will be held in the Washington, DC metro area to conduct a peer review of the agency's draft IRIS Toxicological Review of RDX (External Review Draft—September 2016).

DATES: The public teleconference will be held on Thursday, November 17, 2016, from 2:00 p.m. to 5:00 p.m. (Eastern Standard Time). The public face-to-face meeting will be held on Monday, December 12, 2016 from 9:00 a.m. to 5:00 p.m., (Eastern Standard Time); Tuesday, December 13, 2016 from 8:30 a.m. to 5:00 p.m.; and Wednesday, December 14, 2016, from 8:30 a.m. to 1:00 p.m. (Eastern Standard Time).

ADDRESSES: The public teleconference will be conducted by telephone only. The public face-to-face meeting will be held at Milken Institute School of Public Health, Convening Center Room, George Washington University, 950 New Hampshire Ave. NW., Washington, DC 20052.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this meeting may contact Dr. Diana Wong, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564–2049 or via email at *wong.diana-m@epa.gov.* General information concerning the SAB can be found at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB and Augmented CAAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB CAAC Augmented for RDX will hold a public teleconference and a public face-to-face meeting. The purpose of the teleconference is to learn about the development of the agency's draft IRIS *Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) (External Review Draft—September 2016)* and to discuss the draft charge questions for the peer review of the document. The purpose of the face-to-face meeting is to conduct a peer review of the agency's draft IRIS *Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) (External Review Draft—September 2016).* The CAAC Augmented for RDX will provide advice to the Administrator through the chartered SAB.

EPA's Office of Research and Development (ORD) requested that the SAB conduct a peer review of the draft IRIS *Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) (External Review Draft—September 2016).* The EPA SAB Staff Office augmented the SAB CAAC with subject matter experts to provide advice through the chartered SAB regarding this IRIS assessment. Additional information about this SAB advisory activity can be found at the following URL: *https://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20RDX?OpenDocument.*

Technical Contacts: Any technical questions concerning EPA's draft IRIS *Toxicological Review of Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) (External Review Draft—September 2016)* should be directed to Gina Perovich by telephone at 703–347–8656 or by email at *perovich.gina@epa.gov*

Availability of Meeting Materials: Prior to the meeting, the review documents, meeting agenda and other materials will be accessible on the meeting page on the SAB Web site at *http://www.epa.gov/sab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Interested members of the public may submit relevant information on the topic of this advisory activity, for the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation on a public teleconference will be limited to three minutes and an oral presentation at the face-to-face meeting will be limited to five minutes. Interested parties wishing to provide comments should contact Dr. Diana Wong, DFO (preferably via email), at the contact information noted above, by November 10, 2016 to be placed on the list of public speakers for the teleconference and by December 5, 2016 to be placed on the list of public speakers for the face-to-face meeting.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by Committee/Panel members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by November 10, 2016 for the teleconference and by December 5, 2016 for the face-to-face meeting. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Diana Wong at the contact information provided above. To request accommodation of a disability, please contact Dr. Wong preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 22, 2016.

Khanna Johnston,

Acting Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2016–23597 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2016–0204; FRL–9953–31–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Information Collection Effort for Oil and Gas Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), "Information Collection Effort for Oil and Gas Facilities" (EPA ICR No. 2548.01, OMB Control No. 2060—NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** (81 FR 35763) on June 3, 2016, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A complete description of the ICR is provided below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before October 31, 2016.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2016–0204, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Brenda Shine, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3608; email address: *shine.brenda@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Collectively, oil and gas facilities are the largest industrial emitters of methane in the U.S. While a great deal of information is available on the oil and gas industry and has to date provided a strong technical foundation to support the Agency's recent actions, the EPA is now seeking more specific information that would be of critical use in addressing existing source emissions pursuant to Clean Air Act (CAA) section 111(d). Taking into account the large number of sources that a national regulation development effort would need to consider, and the potential for taking a different approach to addressing co-located existing sources than was taken with new and modified sources, the EPA requires information that will enable the development of effective standards for this entire industry under CAA section 111(d).

There will be two parts to the information collection. Part 1, referred to as the operator survey, is specifically designed to obtain information from onshore oil and gas production facilities to better understand the number and types of equipment at production facilities. Part 2, referred to as the detailed facility survey, will be sent to selected oil and gas facilities across the different industry segments. Part 2 will collect detailed, unit-specific information on emission sources at the facility and any emission control devices or management practices used to reduce emissions. Due to the large number of potentially affected facilities, Part 2 uses a statistical sampling method considering each industry segment (and groupings of facilities in the production segment) to be separate sampling populations. Thus, a statistically significant number of facilities within each industry segment (or ''population'') will be required to complete the Part 2 detailed facility survey.

The data collected throughout this process will be used to determine the number of potentially affected emission sources and the types and prevalence of emission controls or emission reduction measures used for these sources at existing oil and gas facilities, among other purposes. This information may also be used to fill data gaps, to evaluate the emission and cost impacts of various regulatory options, and to establish appropriate standards of performance for oil and gas facilities.

Respondents will be required to respond under the authority of section 114 of the CAA. The EPA anticipates issuing the CAA section 114 letters by late October, 2016. These letters would require the owner/operator of an oil and gas facility to complete and submit the Part 1 survey within 30 days of receipt of the survey, and would require facilities to complete and submit the Part 2 survey with 120 days of receipt.

All information submitted to the Agency in response to the surveys will be managed in accordance with applicable laws and the EPA's regulations governing treatment of CBI at 40 CFR part 2, subpart B. Any information determined to constitute a trade secret will be protected under 18 U.S.C. 1905.

Form numbers: None.

Respondents/affected entities: Respondents affected by this action are owners/operators of oil and natural gas facilities.

Respondent's obligation to respond: Mandatory. (Pursuant to section 114 of the CAA.)

Estimated number of respondents: The estimated number of respondents for Part 1 is 15,000 operators representing approximately 698,800 facilities (total). The estimated number of respondents for Part 2 is 3,818.

Frequency of response: This is a one-time survey.

Total estimated burden: 245,481 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $37,692,625, which includes $6,987,000 in operating and maintenance (O&M) costs.

Changes in estimates: This is a new ICR.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2016–23463 Filed 9–28–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, September 29, 2016

September 22, 2016.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on September 29, 2016 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	Public Safety & Homeland Security	*Title:* Improving Wireless Emergency Alerts (PS Docket No. 15–91); Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System (PS Docket No. 15–94). *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking that would leverage advancements in technology to improve wireless emergency alert content, delivery and testing, while seeking comment on further measures to ensure effective alerts.
2	International and Media	*Title:* Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended (GN Docket No. 15–236). *Summary:* The Commission will consider a Report and Order that extends to broadcast licensees the same streamlined rules and procedures that common carrier wireless licensees use to seek approval for foreign ownership, with appropriate broadcast-specific modifications. The item also establishes a framework for a publicly traded common carrier or broadcast licensee or controlling U.S. parent to ascertain its foreign ownership levels.
3	Media	*Title:* Promoting the Availability of Diverse and Independent Sources of Video Programming (MB Docket No. 16–41). *Summary:* The Commission will consider a NPRM that proposes steps the Commission can take to promote the distribution of independent and diverse programming to consumers.
4	Media	*Title:* Expanding Consumers' Video Navigation Choices (MB Docket No. 16–42); Commercial Availability of Navigation Devices (CS Docket No. 97–80). *Summary:* The Commission will consider a Report and Order that modernizes the Commission's rules to allow consumers to use a device of their choosing to access multichannel video programming instead of leasing devices from their cable or satellite providers.
5	General Counsel	*Title:* In the Matters of Matthew Keys and Shawn Musgrave on Request for Inspection of Records (FOIA Control Nos. 2014–669, 2015–000649). *Summary:* The Commission will consider a Memorandum Opinion and Order concerning Applications for Review filed by Matthew Keys and Shawn Musgrave, which appealed two separate decisions by the Office of Engineering and Technology addressing Freedom of Information Act requests.
6	Media	*Title:* Powell Meredith Communications Company, Application for Modification to Low Power Television Station KBFY–LP, Fortuna, Arizona. *Summary:* The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by PMCC.
7	Media	*Title:* Bernard Dallas LLC, Assignor, and ACM Dallas V LLC, Assignee, Applications for Assignment of Licenses for KFCD(AM), Farmersville, Texas, and KHSE(AM), Wylie, Texas, and ACM Dallas V LLC, Assignor, and Hammond Broadcasting, LLC, Assignee, Application for Assignment of License for KHSE(AM), Wylie, Texas. *Summary:* The Commission will consider a Memorandum Opinion and Order concerning an Application for Review of the Media Bureau's grant of license assignment applications.

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Consent Agenda

The Commission will consider the following subjects listed below as a consent agenda and these items will not be presented individually:

1	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.
2	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.
3	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.
4	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.

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Personnel Actions

The Commission will consider the following personnel actions listed below and these items will not be presented individually:

1	Managing Director	*Title:* Personnel Action #1. *Summary:* The Commission will consider a personnel action.
2	Managing Director	*Title:* Personnel Action #2. *Summary:* The Commission will consider a personnel action.
3	Managing Director	*Title:* Personnel Action #3. *Summary:* The Commission will consider a personnel action.
4	Managing Director	*Title:* Personnel Action #4. *Summary:* The Commission will consider a personnel action.
5	Managing Director	*Title:* Personnel Action #5. *Summary:* The Commission will consider a personnel action.
6	Managing Director	*Title:* Personnel Action #6. *Summary:* The Commission will consider a personnel action.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–23475 Filed 9–28–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Merchants Corporation, Muncie, Indiana;* to acquire 12.11 percent of Independent Alliance Banks, Inc., Fort Wayne, Indiana, and thereby indirectly acquire shares of IAB Financial Bank, Fort Wayne, Indiana.

B. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Monument Bancorp, Inc., Doylestown, Pennsylvania;* to become a bank holding company by acquiring Monument Bank, Doylestown, Pennsylvania.

Board of Governors of the Federal Reserve System, September 26, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–23549 Filed 9–28–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0852]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Prevalence Survey of Healthcare-Associated Infections (HAIs) and Antimicrobial Use in U.S. Acute Care Hospitals—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Preventing healthcare-associated infections (HAIs) and reducing the emergence and spread of antimicrobial resistance are priorities for the CDC and the U.S. Department of Health and Human Services (DHHS). Improving antimicrobial drug prescribing in the United States is a critical component of strategies to reduce antimicrobial resistance, and is a key component of the President's National Strategy for Combating Antibiotic Resistant Bacteria (CARB), which calls for "inappropriate inpatient antibiotic use for monitored conditions/agents" to be "reduced 20% from 2014 levels" (page 9, *https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf*). To achieve these goals and improve patient safety in the United States, it is necessary to know the current burden of infections and antimicrobial drug use in different healthcare settings, including the types of infections and drugs used in short-term acute care hospitals, the pathogens causing infections, and the quality of antimicrobial drug prescribing.

Today more than 5,000 short-term acute care hospitals participate in national HAI surveillance through the CDC's National Healthcare Safety Network (NHSN, OMB Control No. 0920–0666, expiration 12/31/18). These hospitals' surveillance efforts are focused on those HAIs that are required to be reported as part of state legislative mandates or Centers for Medicare & Medicaid Services (CMS) Inpatient Quality Reporting (IQR) Program. Hospitals do not report data on all types of HAIs occurring hospital-wide. Data from a previous prevalence survey showed that approximately 28% of all HAIs are included in the CMS IQR Program. Periodic assessments of the magnitude and types of HAIs occurring in all patient populations in hospitals are needed to inform decisions by local and national policy makers and by hospital infection prevention professionals regarding appropriate targets and strategies for HAI prevention.

The CDC's hospital prevalence survey efforts began in 2008–2009. A pilot survey was conducted over a 1-day period at each of nine acute care hospitals in one U.S. city. This pilot phase was followed in 2010 by a phase 2, limited roll-out HAI and antimicrobial use prevalence survey, conducted in 22 hospitals across 10 Emerging Infections Program sites (California, Colorado, Connecticut, Georgia, Maryland, Minnesota, New Mexico, New York, Oregon, and Tennessee). A full-scale, phase 3 survey was conducted in 2011, involving 183 hospitals in the 10 Emerging Infections Program (EIP) sites. Data from this survey conducted in 2011 showed that there were an estimated 722,000 HAIs in U.S acute care hospitals in 2011, and about half of the 11,282 patients included in the survey in 2011 were receiving antimicrobial drugs. The survey was repeated in 2015–2016 to update the national HAI and antimicrobial drug use burden; data from this survey will also provide baseline information on the quality of antimicrobial drug prescribing for selected, common clinical conditions in hospitals. Data collection is ongoing at this time.

A revision of the prevalence survey's existing OMB approval is sought to reduce the data collection burden and to extend the approval to allow another short-term acute care hospital survey to be conducted in 2019. Data from the 2019 survey will be used to evaluate progress in eliminating HAIs and improving antimicrobial drug use.

The 2019 survey will be performed in a sample of up to 300 acute care hospitals, drawn from the acute care hospital populations in each of the 10 EIP sites (and including participation from many hospitals that participated in prior phases of the survey). Infection prevention personnel in participating hospitals and EIP site personnel will collect demographic and clinical data from the medical records of a sample of eligible patients in their hospitals on a single day in 2019, to identify CDC-defined HAIs and collect information on antimicrobial drug use. The survey data will be used to estimate the prevalence of HAIs and antimicrobial drug use and describe the distribution of infection types and pathogens. The data will also be used to determine the quality of antimicrobial drug prescribing. These data will inform strategies to reduce and eliminate healthcare-associated infections—a DHHS Healthy People 2020 objective (*http://www.healthypeople.gov/2020/topicsobjectives2020/overview.aspx?topicid=17*). This survey project also supports the CDC Winnable Battle goal of improving national surveillance for healthcare-associated infections (*http://www.cdc.gov/*

winnablebattles/Goals.html) and the CARB National Strategy (*https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf*) and Action Plan (*https://www.whitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibotic-resistant_bacteria.pdf*).

There are no costs to the respondents other than their time. The total estimated annual burden hours is 1,860. This represents a reduction in the total estimated annual burden hours from the previous approval due to a reduction in the number of respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Infection preventionist	Healthcare Facility Assessment (HFA)	100	1	45/60
Infection preventionist	Patient Information Form (PIF)	100	63	17/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–23506 Filed 9–28–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–297 (CMS–L564)]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 31, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR,* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Use:* Section 1837(i) of the Social Security Act provides for a special enrollment period for individuals who delay enrolling in Medicare Part B because they are covered by a group health plan based on their own or a spouse's current employment status. Disabled individuals with Medicare may also delay enrollment because they have large group health plan coverage based on their own or a family member's current employment status. When these individuals apply for Medicare Part B, they must provide proof that the group health plan coverage is (or was) based on current employment status. *Form Number:* CMS–R–297 (CMS–L564) (OMB control number: 0938–0787); *Frequency:* Once; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 15,000; *Total Annual Responses:* 15,000; *Total Annual Hours:* 5,000. (For policy questions regarding this collection contact Lindsay Scully at 410–786–6843.)

Dated: September 26, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–23537 Filed 9–28–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; University Centers for Excellence in Developmental Disabilities Education, Research, and Service—Annual Report

AGENCY: The Administration on Intellectual and Developmental Disabilities (AIDD), Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration on Intellectual and Developmental Disabilities (AIDD), now part of the Administration for Community Living, is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by October 31, 2016.

ADDRESSES: *OIRA_submission@omb.eop.gov* or by fax to 202.395.5806. Attn: OMB Desk Officer for ACL, Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Ophelia McLain at 202–795–7401 or*ophelia.mclain@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the Administration on Intellectual and Developmental Disabilities (now part of the Administration for Community Living) has submitted the following proposed collection of information to OMB for review and clearance.

Section 104 (42 U.S.C. 15004) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000) directs the Secretary of Health and Human Services to develop and implement a system of program accountability to monitor the grantees funded under the DD Act of 2000. The program accountability system shall include the National Network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service (UCEDDs) authorized under Part D of the DD Act of 2000. In addition to the accountability system, Section 154 (e) (42 U.S.C. 15064) of the DD Act of 2000 includes requirements for a UCEDD Annual Report.

The proposed data collection tools may be found on the ACL/AIDD Web site at: *http://www.acl.gov/Programs/AIDD/Program_Resource_Search/Results_UCEDD.aspx.* AIDD estimates the burden of this collection of information as 1,412 average burden hours per responses, for 67 UCEDDs,—Total burden is 94,604 hours per year.

Dated: September 22, 2016.

Edwin L. Walker,

Acting Administrator.

[FR Doc. 2016–23488 Filed 9–28–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1143]

Use of Nucleic Acid Tests To Reduce the Risk of Transmission of West Nile Virus From Living Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products; Guidance for Industry; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; correction.

SUMMARY: The Food and Drug Administration (FDA or Agency) is correcting a notice that appeared in the **Federal Register** of Tuesday, September 13, 2016 (81 FR 62910). The document announced the availability of a guidance for industry entitled "Use of Nucleic Acid Tests to Reduce the Risk of Transmission of West Nile Virus from Living Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps). The document was published with incorrect information of a comment period due date. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Jonathan McKnight, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 13, 2016, in FR Doc. 2016–21969, on page 62910, the following correction is made:

On page 62910, in the first column under the **DATES:** caption, the sentence is corrected to read, "Submit either electronic or written comments on Agency guidances at any time."

Dated: September 23, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–23514 Filed 9–28–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1619]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice invites comments on the information collection provisions of FDA's regulations regarding current good manufacturing practice (CGMP) for dietary supplements.

DATES: Submit either electronic or written comments on the collection of information by November 28, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you

do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2013–N–1619 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements—21 CFR Part 111; OMB Control Number 0910–0606—Extension

On October 25, 1994, the Dietary Supplement Health and Education Act (DSHEA) (Pub. L. 103–417) was signed into law. DSHEA, among other things, amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by adding section 402(g) of the FD&C Act (21 U.S.C. 342(g)). Section 402(g)(2) of the FD&C Act provides, in part, that the Secretary of Health and Human Services may, by regulation, prescribe good manufacturing practices for dietary supplements. Section 402(g) of the FD&C Act also stipulates that such regulations will be modeled after CGMP regulations for food and may not impose standards for which there are no current, and generally available, analytical methodology. Section 402(g)(1) of the FD&C Act states that a dietary supplement is adulterated if "it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations." Under section 701(a) of the FD&C Act (21 U.S.C. 371), FDA may issue regulations necessary for the efficient enforcement of the FD&C Act. In the **Federal Register** of June 25, 2007 (72 FR 34752), (the June 25, 2007, final rule), FDA published a final rule that established, in part 111 (21 CFR part 111), the minimum CGMP necessary for activities related to manufacturing, packaging, labeling, or holding dietary supplements to ensure the quality of the dietary supplement.

Records are an indispensable component of CGMP. The records required by FDA's regulations in part 111 provide the foundation for the planning, control, and improvement processes that constitute a quality control system. Implementation of these processes in a manufacturing operation serves as the backbone to CGMP. The records show what is to be manufactured; what was, in fact, manufactured; and whether the controls that the manufacturer put in place to ensure the identity, purity, strength, and composition and limits on contaminants and to prevent adulteration were effective. Further, records will show whether and what deviations from control processes occurred, facilitate evaluation and corrective action concerning these deviations (including, where necessary, whether associated batches of product should be recalled from the marketplace), and enable a manufacturer to assure that the corrective action was effective. In addition, by establishing recordkeeping requirements, FDA can ensure that industry follows CGMP during manufacturing, packaging, labeling, or holding operations. The regulations in part 111 establish the minimum manufacturing practices necessary to ensure that dietary supplements are manufactured, packaged, labeled, or held in a manner that will ensure the quality of the dietary supplements during manufacturing, packaging, labeling or holding operations.

The recordkeeping requirements of the regulations include establishing written procedures and maintaining records pertaining to: (1) Personnel; (2) sanitation; (3) calibration of instruments and controls; (4) calibration, inspection, or checks of automated, mechanical, or electronic equipment; (5) maintaining, cleaning, and sanitizing equipment and utensils and other contact surfaces; (6) water used that may become a component of the dietary supplement; (7) production and process controls; (8) quality control; (9) components, packaging, labels and product received for packaging and labeling; (10) master manufacturing and batch production; (11) laboratory operations; (12) manufacturing operations; (13) packaging and labeling operations; (14) holding and distributing operations; (15) returned dietary supplements; and (16) product complaints.

Description of Respondents: Manufacturers, dietary supplement manufacturers, packagers and repackagers, labelers and re-labelers, holders, distributors, warehousers, exporters, importers, large businesses, and small businesses engaged in the dietary supplement industry.

The recordkeeping requirements of the regulations in part 111 are set forth in each subpart. In table 1 of this document, we list the annual burdens associated with recordkeeping, as described in the June 25, 2007, final rule. For some provisions listed in table 1, we did not estimate the number of records per recordkeeper because recordkeeping occasions consist of frequent brief entries of dates, temperatures, monitoring results, or documentation that specific actions were taken. Information might be recorded a few times a day, week, or month. When the records burden involves frequent brief entries, we entered 1 as the default for the number of records per recordkeeper. For example, many of the records listed under § 111.35 in table 1, such as § 111.35(b)(2) (documentation, in individual equipment logs, of the date of the use, maintenance, cleaning, and sanitizing of equipment), involve many short sporadic entries over the course of the year, varying across equipment and plants in the industry. We did not attempt to estimate the actual number of recordkeeping occasions for these provisions, but instead entered an estimate of the average number of hours per year. We entered the default value of 1 as the number of records per recordkeeper for these and similar provisions. For § 111.35, the entry for number of records is 1 as a default representing a large number of brief recordkeeping occasions.

In many rows of table 1 of this document, we list a burden under a single provision that covers the written procedures or records described in several provisions. For example, the burden of the batch production records listed in table 1 under § 111.260 includes the burden for records listed under § 111.255 because the batch production records must include those records. The number of records for batch production records (and other records kept on a batch basis in table 1 of this document) equals the annual number of batches. The estimated burden for records kept by batch includes both records kept for every batch and records kept for some but not all batches. We use the annual number of batches as the number of records that will not necessarily be kept for every batch, such as test results or material review and disposition records, because such records are part of records, if they are necessary, that will be kept for every batch.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
111.14, Records of personnel practices, including documentation of training.	15,000	4	60,000	1	60,000
111.23, Records of physical plant sanitation practices, including pest control and water quality.	15,000	1	15,000	0.2 (12 minutes)	3,000
111.35, Records of equipment and utensils calibration and sanitation practices.	400	1	400	12.5	5,000
111.95, Records of production and process control systems.	250	1	250	45	11,250
111.140, Records that quality control personnel must make and keep.	240	1,163	279,120	1	279,120
111.180, Records associated with components, packaging, labels, and product received for packaging and labeling as a dietary supplement.	240	1,163	279,120	1	279,120
111.210, Requirements for what the master manufacturing record must include.	240	1	240	2.5	600
111.260, Requirements for what the batch record must include.	145	1,408	204,160	1	204,160
111.325, Records that quality control personnel must make and keep for laboratory operations.	120	1	120	15	1,800
111.375, Records of the written procedures established for manufacturing operations.	260	1	260	2	520
111.430, Records of the written procedures for packaging and labeling operations.	50	1	50	12.6	630
111.475, Records of product distribution and procedures for holding and distributing operations.	15,000	1	15,000	0.4 (24 minutes)	6,000
111.535, Records for returned dietary supplements	110	4	440	13.5	5,940

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
111.570, Records regarding product complaints	240	600	144,000	0.5 (30 minutes)	72,000
Total					929,140

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The average burden per recordkeeping estimates in Table 1 of this document are based on those in the June 25, 2007, final rule, which were based on our institutional experience with other CGMP requirements and on data provided by Research Triangle Institute in the "Survey of Manufacturing Practices in the Dietary Supplement Industry" cited in that rule.

The estimates in table 1 of the number of firms affected by each provision of part 111 are based on the percentage of manufacturers, packagers, labelers, holders, distributors, and warehousers that reported in the survey that they have not established written SOPs or do not maintain records that were later required by the June 25, 2007, final rule. Because we do not have survey results for general warehouses, we entered the approximate number of facilities in that category for those provisions covering general facilities. For the dietary supplement industry, the survey estimated that 1,460 firms would be covered by the final rule, including manufacturers, packagers, labelers, holders, distributors, and warehousers. The time estimates include the burden involved in documenting that certain requirements are performed and in recordkeeping. We used an estimated annual batch production of 1,408 batches per year to estimate the burden of requirements that are related to the number of batches produced annually, such as § 111.260, "What must the batch production record include?" The estimate of 1,408 batches per year is near the midpoint of the number of annual batches reported by survey firms.

The length of time that CGMP records must be maintained is set forth in § 111.605. Table 1 of this document reflects the estimated burdens for written procedures, record maintenance, periodically reviewing records to determine if they may be discarded, and for any associated documentation for that activity for records that are required under part 111. We have not included a separate estimate of burden for those sections that require maintaining records in accordance with § 111.605, but have included those burdens under specific provisions for keeping records. For example, § 111.255(a) requires that the batch production records be prepared every time a batch is manufactured, and § 111.255(d) requires that batch production records be kept in accordance with § 111.605. The estimated burdens for both § 111.255(a) and (d) are included under § 111.260, what the batch record must include.

Dated: September 23, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–23521 Filed 9–28–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3326]

Biosimilar User Fee Act; Public Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled "Biosimilar User Fee Act; Public Meeting" that appeared in the **Federal Register** of September 19, 2016 (81 FR 64171). The document announced a public meeting to discuss proposed recommendations for the reauthorization of the Biosimilar User Fee Act (BsUFA) for fiscal years (FYs) 2018 through 2022. The document was published with the incorrect date of the closure of the docket and incorrect transcript information. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–9115, *lisa.granger@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Monday, September 19, 2016, in FR Doc. 2016–22442, the following corrections are made:

1. On page 64172, in the first column, in the third sentence of the **DATES** section, "October 19, 2016" is corrected to read "October 28, 2016."

2. On page 64175, in the third column, the section "*Transcripts:* As soon as a transcript is available, FDA will post it at *http://www.fda.gov/ForIndustry/UserFees/BiosimilarUserFeeActBsUFA/ucm461774.htm.*" is corrected to read "*Transcripts:* Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* and *http://www.fda.gov/ForIndustry/UserFees/BiosimilarUserFeeActBsUFA/ucm461774.htm.* It may be viewed at the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *http://www.fda.gov.*"

Dated: September 23, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–23523 Filed 9–28–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS (the Secretary) is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute

with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, MD 20857; (301) 443–6593, or visit our Web site at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that "[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**." Set forth below is a list of petitions received by HRSA on August 1, 2016, through August 31, 2016. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

a. "[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by" one of the vaccines referred to in the Table, or

b. "[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: September 22, 2016.

James Macrae,

Acting Administrator.

List of Petitions Filed

1. Victoria Cohen, Norwood, Massachusetts, Court of Federal Claims No: 16–0910V.
2. Cheryl Stephens, Portland, Texas, Court of Federal Claims No: 16–0913V.
3. John Greider, Plano, Texas, Court of Federal Claims No: 16–0915V.
4. Jessie M. Holloway, Houston, Texas, Court of Federal Claims No: 16–0919V.
5. Stephanie Digerolamo, Cedar Brook, New Jersey, Court of Federal Claims No: 16–0920V.
6. Melinda Holgate, Syracuse, New York, Court of Federal Claims No: 16–0921V.
7. Michele Baxter on behalf of L.R., Fayetteville, Tennessee, Court of Federal Claims No: 16–0922V.
8. Stephanie Nwala and Emmanuel Nwala on behalf of C.N., Aberdeen, South Dakota, Court of Federal Claims No: 16–0923V.
9. Susan Cobbina, Spencerport, New York, Court of Federal Claims No: 16–0924V.
10. Patrice Moczek on behalf of K.H., Shadyside, Ohio, Court of Federal Claims No: 16–0930V.
11. Wanda Hughs on behalf of A.E.H., Meridian, Mississippi, Court of Federal Claims No: 16–0934V.
12. Michael Anderson and Hasani Taylor on behalf of K.A., Valhalla, New York, Court of Federal Claims No: 16–0935V.
13. George M. Gavin, Pittsburgh, Pennsylvania, Court of Federal Claims No: 16–0936V.
14. Greg Averitt, Perryton, Texas, Court of Federal Claims No: 16–0938V.
15. William Lance Ferguson, Corpus Christi, Texas, Court of Federal Claims No: 16–0939V.
16. Paulette Stuart, Valley Stream, New York, Court of Federal Claims No: 16–0940V.
17. Danny Pasawongse and Kristy M. Suh on behalf of I.Y.P., San Mateo, California, Court of Federal Claims No: 16–0944V.
18. Armicka S. Miller on behalf of The Estate of Arnold Lee Miller, Deceased, Hampton, Virginia, Court of Federal Claims No: 16–0946V.
19. Peter Matte, Houston, Texas, Court of Federal Claims No: 16–0949V.
20. Helga Matthews, Glendale, Arizona, Court of Federal Claims No: 16–0951V.
21. Melissa Bianconi on behalf of S.L., Seattle, Washington, Court of Federal Claims No: 16–0952V.
22. Donald Jackson, Lexington, Kentucky, Court of Federal Claims No: 16–0955V.
23. Leonard Sean Thompson, Hoboken, New Jersey, Court of Federal Claims No: 16–0956V.
24. Flora Adler, Russiaville, Indiana, Court of Federal Claims No: 16–0960V.
25. Marilyn Smith, Dallas, Texas, Court of Federal Claims No: 16–0961V.
26. Niki Delson, Saugerties, New York, Court of Federal Claims No: 16–0962V.
27. Barbara Sease, Chambersburg, Pennsylvania, Court of Federal Claims No: 16–0964V.
28. David Fenster, Princeton, New Jersey, Court of Federal Claims No: 16–0965V.
29. Tamara Frye, Topeka, Kansas, Court of Federal Claims No: 16–0966V.
30. Horace Mungin, Goose Creek, South Carolina, Court of Federal Claims No: 16–0968V.
31. Ann Meril, Yonkers, New York, Court of Federal Claims No: 16–0969V.
32. Abdolrahim Noorani, Levittown, Pennsylvania, Court of Federal Claims No: 16–0970V.
33. William Dye, Portland, Maine, Court of

Federal Claims No: 16–0971V.
34. Donnie Jordan, Springfield, Virginia, Court of Federal Claims No: 16–0972V.
35. David Davis, Lumberton, North Carolina, Court of Federal Claims No: 16–0974V.
36. Mary Germano, Washington, District of Columbia, Court of Federal Claims No: 16–0976V.
37. David Hanson, New Hope, Minnesota, Court of Federal Claims No: 16–0977V.
38. Kathleen A. Seko, Kitty Hawk, North Carolina, Court of Federal Claims No: 16–0978V.
39. Jacklyn Hallead, Bay City, Michigan, Court of Federal Claims No: 16–0979V.
40. Jean Gentile, Saint Louis Park, Minnesota, Court of Federal Claims No: 16–0980V.
41. Pam Mecagni, Collinsville, Illinois, Court of Federal Claims No: 16–0981V.
42. Sara Faley, Dixon, Illinois, Court of Federal Claims No: 16–0982V.
43. Brady Scott, Westminster, Colorado, Court of Federal Claims No: 16–0983V.
44. Linda Multer, Somerville, Massachusetts, Court of Federal Claims No: 16–0985V.
45. Rhonda Larson, Woodbridge, Virginia, Court of Federal Claims No: 16–0986V.
46. Holly Dlouhy, Houston, Texas, Court of Federal Claims No: 16–0987V.
47. Kimberly Daniel, New York, New York, Court of Federal Claims No: 16–0988V.
48. Kameshwar Rao S. Ayyasolla, Lake Success, New York, Court of Federal Claims No: 16–0989V.
49. Paul Schachter, Fort Wright, Kentucky, Court of Federal Claims No: 16–0990V.
50. Denise Procida, Atlanta, Georgia, Court of Federal Claims No: 16–0991V.
51. Nicola Winkel, Phoenix, Arizona, Court of Federal Claims No: 16–0992V.
52. Gary Hausdorf, Minneapolis, Minnesota, Court of Federal Claims No: 16–0993V.
53. Nicholas Zumwalt on behalf of L.Z., Broken Arrow, Oklahoma, Court of Federal Claims No: 16–0994V.
54. Marie Campbell on behalf of Andrew J. Campbell, Whippany, New Jersey, Court of Federal Claims No: 16–0996V.
55. Anna Perekotiy on behalf of S.K., Scottsdale, Arizona, Court of Federal Claims No: 16–0997V.
56. Artha Timothy, Hope Mills, North Carolina, Court of Federal Claims No: 16–0998V.
57. Donald Butts, Jr., Middletown, Ohio, Court of Federal Claims No: 16–1002V.
58. Gerald Sather, Port Orchard, Washington, Court of Federal Claims No: 16–1004V.
59. Peter A. Voss, Menomonee Falls, Wisconsin, Court of Federal Claims No: 16–1005V.
60. Jane Rocha-DeMelo, Swansea, Massachusetts, Court of Federal Claims No: 16–1007V.
61. Mee Lee on behalf of Maiyer Lee, Milwaukee, Wisconsin, Court of Federal Claims No: 16–1008V.
62. Fred Booth, Birmingham, Alabama, Court of Federal Claims No: 16–1012V.
63. Patrick C. Richardson, Waianae, Hawaii, Court of Federal Claims No: 16–1013V.
64. Anita Romero, Huntington Valley, Pennsylvania, Court of Federal Claims No: 16–1014V.
65. Daniel Soper, Boston, Massachusetts, Court of Federal Claims No: 16–1016V.
66. Norman Larsen, Staten Island, New York, Court of Federal Claims No: 16–1018V.
67. Valerie Silver on behalf of R.S., Nyak, New York, Court of Federal Claims No: 16–1019V.
68. Michael Rochotte, New Brunswick, New Jersey, Court of Federal Claims No: 16–1024V.
69. Mark P. Calnan, Lexington, Massachusetts, Court of Federal Claims No: 16–1025V.
70. John Belt, Lakewood, Colorado, Court of Federal Claims No: 16–1026V.
71. Crystal Butler on behalf of S.B., Phoenix, Arizona, Court of Federal Claims No: 16–1027V.
72. Turmak Davis, Wilmington, North Carolina, Court of Federal Claims No: 16–1028V.
73. Daniel McNeal, Indianapolis, Indiana, Court of Federal Claims No: 16–1029V.
74. Jessica Roberts, Woodbury, Minnesota, Court of Federal Claims No: 16–1030V.
75. Beverly Massey, Sister Bay, Wisconsin, Court of Federal Claims No: 16–1032V.
76. Sharlee Funai, Honolulu, Hawaii, Court of Federal Claims No: 16–1033V.
77. Alexis Obers, Solvang, California, Court of Federal Claims No: 16–1034V.
78. Regina O. Fletcher, Nesconset, New York, Court of Federal Claims No: 16–1037V.
79. Deborah Chrowl, Salem, Oregon, Court of Federal Claims No: 16–1040V.
80. Michael Bates, Rock Hill, South Carolina, Court of Federal Claims No: 16–1041V.
81. Brandon Hood, Kingwood, Texas, Court of Federal Claims No: 16–1042V.
82. Lanesia Shea on behalf of A.S., Las Cruces, New Mexico, Court of Federal Claims No: 16–1043V.
83. Aprises Phillips and Ivan Phillips, Sr. on behalf of Ivana Phillips, Birmingham, Alabama, Court of Federal Claims No: 16–1044V.
84. Aprises Phillips and Ivan Phillips, Sr. on behalf of Ivanka Phillips, Birmingham, Alabama, Court of Federal Claims No: 16–1045V.
85. Aprises Phillips and Ivan Phillips, Sr. on behalf of Ivan Phillips, Birmingham, Alabama, Court of Federal Claims No: 16–1046V.
86. Ursula Rehfeld, Berlin, Germany, Court of Federal Claims No: 16–1048V.
87. Kelsey Hanstead, Mt. Vernon, Washington, Court of Federal Claims No: 16–1050V.
88. Shannon Jablonski, Washington, District of Columbia, Court of Federal Claims No: 16–1051V.
89. Fabrizio Cianni on behalf of Carmella Cianni, Deceased, Vienna, Virginia, Court of Federal Claims No: 16–1052V.
90. James Lagle, Huntingdon, Pennsylvania, Court of Federal Claims No: 16–1053V.
91. Diana Malick, Swarthmore, Pennsylvania, Court of Federal Claims No: 16–1054V.
92. Rachel McCarron, Groton, Massachusetts, Court of Federal Claims No: 16–1055V.
93. Robert Manuel, Bakersfield, California, Court of Federal Claims No: 16–1057V.
94. Luis Trigueros, Boston, Massachusetts, Court of Federal Claims No: 16–1058V.
95. Linda Hubbard on behalf of Leslie McKnight, Deceased, Boulder, Colorado, Court of Federal Claims No: 16–1059V.
96. Jenifer Twiford, San Francisco, California, Court of Federal Claims No: 16–1060V.
97. William Staak, Jr., Jonesboro, Georgia, Court of Federal Claims No: 16–1061V.
98. Claydene Benson, Beverly Hills, California, Court of Federal Claims No: 16–1062V.
99. Kim Manget, Beverly Hills, California, Court of Federal Claims No: 16–1064V.
100. John Strowger, Largo, Florida, Court of Federal Claims No: 16–1065V.
101. Vickie L. Dern on behalf of David J. Dern, Deceased, Birmingham, Alabama, Court of Federal Claims No: 16–1066V.
102. Kim LaFountaine, Longview, Washington, Court of Federal Claims No: 16–1067V.
103. Linda Hagans, Villa Rica, Georgia, Court of Federal Claims No: 16–1068V.
104. George Easton, Hazelton, Pennsylvania, Court of Federal Claims No: 16–1069V.
105. Cathy Deshler, Salt Lake City, Utah, Court of Federal Claims No: 16–1070V.
106. Ala Mohamad, Denver, Colorado, Court of Federal Claims No: 16–1075V.
107. Bonnie Stratton, Brea, California, Court of Federal Claims No: 16–1076V.
108. Minh Le, Bristol, Pennsylvania, Court of Federal Claims No: 16–1078V.
109. Jean de Bary, Boston, Massachusetts, Court of Federal Claims No: 16–1080V.
110. Chiyoko Miller, Washington, District of Columbia, Court of Federal Claims No: 16–1081V.
111. Jeffrey Heise and Meghan Heise on behalf of L.D.H., Wausau, Wisconsin, Court of Federal Claims No: 16–1082V.
112. Julia Sullivan, Phoenix, Arizona, Court of Federal Claims No: 16–1083V.
113. Richard Waters, Phoenix, Arizona, Court of Federal Claims No: 16–1084V.
114. Carol Katora, York, Pennsylvania, Court of Federal Claims No: 16–1086V.
115. Teresa Shuart, Syracuse, New York, Court of Federal Claims No: 16–1087V.
116. Pauline Zand, Greenbrae, California, Court of Federal Claims No: 16–1088V.
117. Heather Sturtze, Worcester, Massachusetts, Court of Federal Claims No: 16–1089V.

[FR Doc. 2016–23585 Filed 9–28–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Announcement of Requirements and Registration for "The Simple Extensible Sampling Tool Challenge"

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: The Simple Extensible Sampling Tool Challenge (Challenge) is an HHS/OIG Challenge under the "America COMPETES" (Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science) Reauthorization Act of

2010 (Pub. L. 111–358). The objective of this Challenge is to construct a sampling tool to replace the current version of RAT–STATS software.

DATES: Important dates regarding the Challenge include the following:

The Challenge begins September 28, 2016.

Submission period: September 28, 2016, to May 15, 2017, 5:00 p.m. EST.

Judging period: September 28, 2016, to June 15, 2017.

OIG announces a winner: Rolling basis, no later than July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Jared Smith, 202–205–9119 or *Jared.Smith@oig.hhs.gov.*

Award Approving Official: Daniel R. Levinson.

SUPPLEMENTARY INFORMATION:

I. Background

RAT–STATS is a basic sampling tool that was originally designed by OIG to give nonexperts a robust method for selecting statistically valid samples in the health care oversight environment. RAT–STATS is used by both Government agencies and private health care providers and has been involved in billions of dollars in audit-related recoveries.

The objective of the current Challenge is to develop the foundation for an upgraded version of RAT–STATS. The current version of RAT–STATS is well validated; however, its user interface can be difficult to navigate, and the underlying code makes the software costly to update. OIG needs a new, modern version of the software that is easy to use and can be extended in a cost-effective manner.

Submissions will be reviewed in the order they are received by OIG. After the first five finalists are identified, no further submissions will be reviewed. This exclusion applies even to submissions received prior to when the fifth finalist is identified and submissions received before May 15, 2017, 5:00 p.m. EST. In addition, even if five finalists are not identified, entries received after May 15, 2017, 5:00 p.m. EST, will not be considered. The number of submissions under review, the number of finalists identified, and the names of the finalists will all be posted at the public Web site *https://www.challenge.gov/challenge/Statistical-Software-for-Healthcare-Oversight/.* This information will be updated on a weekly basis.

Upon being notified that an entry has been reviewed and does not meet the criteria for becoming a finalist, a participant has 7 business days to request an explanation for the rejection. Explanation requests must be sent via email to *Jared.Smith@oig.hhs.gov.* An explanation will be provided within 10 business days from when the request is received. At any time prior to May 15, 2017, or the identification of the five finalists by OIG—whichever occurs first—a team (one or more members) may resubmit its entry. Upon receipt of an updated submission, the previous submission will be excluded in its entirety from the competition, and the submission date for the team will be defined as the time when the new submission is received.

Other than as described in the previous paragraph, OIG is not required to provide feedback to challenge participants with respect to any information submitted. By submitting an entry, individuals and teams grant OIG the right to use all or part of its Challenge entry (*i.e.,* algorithm and software) as submitted or in order to create a future software package. Any version of the software produced by OIG will be freely available to the public.

OIG will amend this **Federal Register** notice if the timeline or the rules for the Challenge are modified. In addition, OIG will notify registered Challenge participants by email of any amendments and will include the modified Challenge showing the changes.

Addresses: Notifications of any amendment to this **Federal Register** notice and answers to frequently asked questions about it will be posted at *https://www.challenge.gov/challenge/Statistical-Software-for-Healthcare-Oversight/.*

II. Subject of Challenge

Each year HHS handles hundreds of millions of Medicare and Medicaid claims valued at more than a trillion dollars. Due to the high volume of claims, statistical sampling provides a critical tool to ensure effective oversight of these expenditures. Sampling is used by the providers in their own efforts to monitor their performance and by the various organizations within HHS. There are a wide range of different software tools for performing statistical analysis. RAT–STATS has a unique niche in that it provides a straightforward tool for individuals who need a simple but robust method for selecting and analyzing statistical samples. The RAT–STATS software was originally created in 1978 and has gone through several upgrades since that time. Unlike a full statistical package that attempts to answer all types of questions for a wide range of users, RAT–STATS serves as a streamlined solution to handle the specific task of developing valid statistical samples and estimates within the health care oversight setting.

For example, an OIG investigator may pull a simple random sample in order to estimate damages for a provider suspected of fraud. RAT–STATS generates valid pseudo-random numbers and outputs all of the information needed to replicate the sample. Once the investigator finishes reviewing the sample, he or she can then enter the results into RAT–STATS to get the final statistical estimate. While the investigator may need some basic training in statistics, he or she would not need the same level of expertise as would be required to navigate the many options available in a full-service statistical or data analysis package.

The objective of the current Challenge is to develop the foundation for an upgraded version of RAT–STATS. The current version of RAT–STATS is well validated; however, its user interface can be difficult to navigate and the underlying code makes the software costly to update. OIG needs a new, modern version of the software that is easy to use and can be extended in a cost-effective manner. In addition, the new version of the software must be 508 compliant.

The current version of the RAT–STATS software can be found at the following web address: *http://www.oig.hhs.gov/compliance/rat-stats/index.asp.*

In order to complete the Challenge participants must create a software package that replicates the operation of four of the functions of the original RAT–STATS software: (1) Single Stage Random Numbers; (2) Unrestricted Attribute Appraisal; (3) Unrestricted Variable Appraisal; and (4) Stratified Variable Appraisal. In addition, submissions must meet all of the rules and requirements outlined in this Notice.

The detailed technical specifications behind the 4 RAT–STATS functions along with 10 test datasets will be provided in their entirety at the start of the competition at *https://oig.hhs.gov/compliance/rat-stats/prize/.* The Challenge does not require the derivation of any new statistical methods.

III. Rules for Participating in the Challenge

Teams of one or more members can participate in this Challenge. There is no maximum team size. Each team must have a captain, and each individual may only be part of a single team. Individual team members and team captains must register in accordance with the Registration Process section below. The role of the team captain is to serve as the corresponding participant with OIG about the Challenge and to submit the team's Challenge entry. While OIG will notify all registered Challenge participants by email of any amendments to the Challenge, the team captain is expected to keep the team members informed about matters germane to the Challenge.

(1) To be eligible to win the Challenge prize, each participant (individual or entity) must—

a. register to participate in the Challenge under the rules promulgated by OIG as published in this Notice;

b. have complied with all the requirements under this section;

c. in the case of a private entity, be incorporated in and maintain a primary place of business in the United States or, in the case of an individual, be a citizen or permanent resident of the United States;

d. not be a Federal entity or Federal employee acting within the scope of their employment;

e. not be an employee of OIG, a judge of the Challenge, or any other party involved with the design, production, execution, or distribution of the Challenge or the immediate family of such a party (*i.e.*, spouse, parent, step-parent, child, or stepchild); and

f. be at least 18 years old at the time of submission.

(2) Federal contractors may not use Federal funds from a contract to develop their Challenge submissions or to fund efforts in support of their Challenge submission.

(3) Federal grantees may not use Federal funds to develop COMPETES Act Challenge applications unless consistent with the purpose of their grant award.

(4) An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

(5) By participating in this Challenge, each individual (whether competing singly or in a group) and entity agrees to assume any and all risks and waive claims against the Federal Government and its related entities (as defined in the COMPETES Act), except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this Challenge, whether the injury, death, damage, or loss arises through negligence or otherwise.

(6) No individual (whether competing singly or in a group) or entity participating in the Challenge is required to obtain liability insurance or demonstrate financial responsibility in order to participate in this Challenge.

(7) By participating in this competition, each individual and entity agrees to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from my participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise.

(8) By participating in this Challenge, each individual (whether participating singly or in a group) and entity grants to OIG, in any existing or inchoate copyright or patent rights owned by the individual or entity, an irrevocable, paid-up, royalty-free, nonexclusive worldwide license to use, reproduce, post, link to, share, and display publicly on the Web the submission, except for source code. This license includes without limitation posting or linking to the submission, except for source code, on OIG's public facing Web site (*http://www.oig.hhs.gov/compliance/rat-stats/index.asp*). In developing its future software systems, OIG may include algorithms and software from Challenge entries and may consult with individuals or teams that submitted entries. Thus, the license also permits OIG to develop a future software system, independently or with others, using any algorithms or software from Challenge entries, including those obtained from other Challenges or solicitations, and OIG may freely use, reproduce, modify, and distribute the resulting future software system without restriction. Each participant will retain all other intellectual property rights in their submissions, as applicable.

(9) OIG reserves the right, at its sole discretion, to (a) cancel, suspend, or modify the Challenge through amendment to this **Federal Register** notice, and/or (b) not award any prizes if no entries meet the stated requirements. In addition, OIG reserves the right to disqualify any Challenge participants or entries in instances where cheating or other misconduct is identified.

(10) Each individual (whether participating singly or in a group) or entity agrees to follow all applicable Federal, State, and local laws, regulations, and policies.

(11) Each individual (whether participating singly or in a group) and entity participating in this Challenge must comply with all terms and conditions of these rules, and participation in this Challenge constitutes each such participant's full and unconditional agreement to abide by these rules. Winning is contingent upon fulfilling all requirements herein.

(12) Each individual (whether participating singly or in a group) and entity grants to OIG and its contractors assisting OIG with this Challenge the right to review the submission, study the algorithms and the code, and run the software on other sets of images.

(13) Submissions must not infringe upon any copyright, patent, trade secrets, or any other rights of any third party. Each individual (whether participating singly or in a group) or entity warrants that she or the team is the sole author and owner of any copyrightable work that the submission comprises, that the submission is wholly original with the participant or is an improved version of an existing work that the participant has sufficient rights to use and improve. In addition, the submission must not trigger any reporting or royalty obligation to any third party. A submission must not include proprietary, classified, confidential, or sensitive information.

(14) The licenses for any code used as part of a submission must be compatible with each other and must allow OIG to distribute and modify the software both within and outside the agency without incurring any reporting or royalty obligations to any third party.

(15) The submission must not contain malicious code such as viruses, timebombs, cancelbots, worms, trojan horses, or other potentially harmful programs or other material or information.

(16) The submission must be unique and must not represent a modification of a previous submission from another team.

(17) Submitted software must be fully functional and operate correctly on Microsoft Windows systems configured in accordance with the applicable United States Government Configuration Baseline (USGCB) and applicable configurations (*https://usgcb.nist.gov/*). The group policy settings associated with this configuration are also available on the NIST Web site (*https://usgcb.nist.gov/usgcb/microsoft_content.html*).

(18) Submitted software must be a stand-alone product that is designed for end users to run in the standard user context without requiring elevated administrative privileges.

(19) Submitted software must not require or make use of any network capabilities.

(20) Submitted software must be section 508 compliant. For example, it must be possible to run all functions using a keyboard, the software must include a well-defined indicator of current program focus, any results provided in image format must also be available in text, and color coding shall not be used as the only means of conveying information. For more details refer to section 36 CFR 1194.21.

IV. Registration Process

Beginning on September 28, 2016, visit *https://www.challenge.gov/challenge/Statistical-Software-for-Healthcare-Oversight/* and follow the instructions provided.

V. Submission Requirements

Submissions must be entered electronically using the challenge.gov Web site *https://www.challenge.gov/challenge/Statistical-Software-for-Healthcare-Oversight/* and must contain each of the following elements.

(1) Executable software that replicates the four target RAT–STATS functions: Single Stage Random Numbers, Unrestricted Attribute Appraisal, Unrestricted Variable Appraisal, and the Stratified Variable Appraisal.

(2) Source code for the executable that is both human- and machine-readable. The source code can be written in any programming language(s) as long as the requirements of this notice are met. The source code must be commented sufficiently so that another user can understand the underlying operation of the code.

(3) A text file written in English documenting and explaining any noncosmetic differences between the submission and the original RAT–STATS software.

(4) A text file written in English summarizing the changes required to add additional RAT–STATS functions to the submission.

(5) A text file written in English documenting all software licenses associated with the source code used as part of the project. The text file must describe the nature of each individual license and their overall compatibility.

(6) A one-page text file written in English that contains the following:

a. Names and email addresses of the team captain and all team members.

b. A five or more character identifier for the entry that is used as a prefix in the names of all of the team's submitted files.

c. A brief description of the submission.

VI. Prize Award Details

The first five submissions that meet all of the requirements outlined in this Notice will receive $3,000. In addition, if a submission is selected to serve as the foundation for the new version of RAT–STATS, then that submission will receive an additional $25,000. The names of the winners will be posted on OIG Web sites. In addition, all winners will be notified via email at the email addresses provided in their prize submissions.

Prizes awarded under this Challenge will be paid by electronic funds transfer and may be subject to Federal income taxes. OIG will comply with U.S. Internal Revenue Service withholding and reporting requirements, where applicable.

To select a winner, OIG will first review submissions in the order in which they are received to determine their suitability for judging and eligibility to win the prize. An eligible submission must comply with all rules and requirements outlined in this **Federal Register** notice.

Submissions that meet the initial eligibility requirements will proceed to the next phase in the judging process, which will assess the submissions based on their ability to replicate RAT–STATS output for 60 test datasets. The 60 test cases will be the same for all submissions. Ten of these test cases will be made available to the public at the start of the Challenge at *https://oig.hhs.gov/compliance/rat-stats/prize/*. The submissions will also be reviewed during this phase to ensure that the steps required to add additional modules are reasonable and fully documented.

The first five eligible submissions that comply with the rules of this Notice, follow the detailed submission instructions, are complete, and are able to fully replicate RAT–STATS on the 60 target cases will each be declared a finalist. Once five finalists have been identified, no further applications will be reviewed even if they are submitted prior to the May 15, 2017, 5:00 p.m. EST deadline. Moreover, the contest will end on May 15, 2017, at 5:00 p.m. EST even if fewer than five finalists have been selected.

The replacement for RAT–STATS will be voted on by 12 HHS/OIG Office of Audit Services (OAS) statistical specialists. The finalist with the greatest number of votes will be selected as the replacement for RAT–STATS and will receive the overall prize. Each statistical specialist will be given a 2-week period to review the submissions and to vote on the submission that he or she would prefer to use in the future. The instructions for the voting will be as follows: "Please review the operation of the following software packages and select one that you would prefer to use in the future for selecting and analyzing your statistical samples." In the case of a tie, the OAS lead statistician will serve as the tie-breaking vote.

Dated: September 20, 2016.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2016–23124 Filed 9–28–16; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Institutional Training Grant Applications.

Date: October 24, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 23, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23452 Filed 9–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Mentored Training and Pathways to Independence Grant Applications.

Date: October 25–26, 2016.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 23, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23453 Filed 9–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AI–16–024: Identification of Small Molecules for Sustained-Release Anti-HIV Products.

Date: October 14, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Statistical Genetics.

Date: October 24–25, 2016.

Time: 10:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Molecular and Cellular Hematology.

Date: October 24–25, 2016.

Time: 10:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–171: Innovation for HIV Vaccine Discovery.

Date: October 25, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiovascular Differentiation and Development Study Section.

Date: October 26, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaylord National Resort and Convention Center, 201 Waterfront Street, National Harbor, MD 20745.

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4136, Bethesda, MD 20817–7814, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Interventions and Mechanisms for Addictions.

Date: October 26, 2016.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Dental meeting.

Date: October 27, 2016.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Baljit S Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Health Disparities in and Caregiving for Alzheimer's Disease.

Date: October 28, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Gabriel B. Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: October 28, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, *jdrgonova@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular Probes.

Date: October 28, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PARs: Screenable Disorders: Therapeutics, Tools and Natural History.

Date: October 28, 2016.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102.

Contact Person: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Musculoskeletal Sciences.

Date: October 28, 2016.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rajiv Kumar, Ph.D., Chief, MOSS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiome and Related Sciences.

Date: October 28, 2016.

Time: 11:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 2188 MSC7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Academic Research Enhancement Award.

Date: October 28, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Inna Gorshkova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1784, *gorshkoi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Acure Brain Injury and Regeneration.

Date: October 28, 2016.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892–7846, 301–435–1254, *yakovleva@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 23, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23451 Filed 9–28–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2016–0499]

National Maritime Security Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The National Maritime Security Advisory Committee will meet in Leesburg, VA to discuss various issues relating to national maritime security. This meeting will be open to the public.

DATES: The Committee will meet on Tuesday, October 18, 2016, from 1:15 p.m. to 4:30 p.m. and Wednesday, October 19, 2016, from 8 a.m. to 12 Noon. Either session may close early if all business is finished.

ADDRESSES: The meeting will be held in the Belmont A and B Room at The National Conference Center, 18980 Upper Belmont Place, Leesburg, VA 20176. The location's Web site is *http://www.conferencecenter.com.*

This meeting will be broadcast via a web enabled interactive online format and teleconference line. To participate via teleconference, dial 1–855–475–2447; the pass code to join is 764 990 20#. Additionally, if you would like to participate in this meeting via the online web format, please log onto *https://share.dhs.gov/nmsac/* and follow the online instructions to register for this meeting.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

Instructions: To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee, as listed in the "Agenda" section below. Written comments must be submitted no later than October 10, 2016, if you want Committee members to be able to review your comments before the meeting. You must include "Department of Homeland Security" and the docket number [USCG–2016–0499]. Written comments may be submitted using Federal eRulemaking Portal at *http://www.regulations.gov.* For assistance with technical difficulties, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

All comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005 issue of the **Federal Register** (70 FR 15086)

Docket Search: For access to the docket to read documents or comments related to this Notice, go to *http://www.regulations.gov* insert "USCG–2016–0499" in the "Search" box, press Enter and then click on the item you wish to view.

Public oral comments will be sought throughout the meeting by the Designated Federal Officer as specific issues are discussed by the Committee. Additionally, public oral comment periods will be held during the meetings on October 18, 2016, from 4 p.m. to 4:15 p.m., and October 19, 2016, from 11:30 a.m. to 12 Noon. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period will end following the last call for comments, even if the entire scheduled period has not elapsed. Contact the person listed in the **FOR**

FURTHER INFORMATION CONTACT section below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer for the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–372–1108 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the Federal Advisory Committee Act, Title 5, United States Code Appendix. The National Maritime Security Advisory Committee operates under the authority of 46 U.S.C. 70112. The Committee provides advice to, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NMSAC* by October 17, 2016. Alternatively, you may contact the person in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda of Meeting

Day 1

The Committee will meet to review, discuss, and formulate recommendations on the following issues:

(1) Extremely Hazardous Cargo Strategy. In July, the Coast Guard tasked the Committee to work with the Chemical Transportation Advisory Committee to assist in the development of an Extremely Hazardous Cargo Strategy Implementation Plan. The Committee will receive an update from the Extremely Hazardous Cargo Working Group on their efforts.

(2) Transportation Worker Identification Credential. The Committee will receive a brief and provide comment on current Transportation Worker Identification Credential efforts.

(3) Facility Security Officer Regulation and Training. The Committee will receive a brief and provide comment on current regulation and training efforts

(4) Regulatory Update. The Committee will receive an update brief on regulatory efforts to date.

(5) Public Comment period.

Day 2

The Committee will meet to review, discuss and formulate recommendations on the following issues:

(1) Future Maritime Security Concerns. The Committee will be tasked with developing a long term list of maritime concerns for potential future taskings.

(2) Joint Port Recovery Protocols. The Committee will receive a brief and provide recommendations on the efforts to update the United States Coast Guard/Customs and Border Protection Joint Port Recovery Protocols.

(3) Transportation Security Administration's Intermodal Security Training and Exercise Program "Maritime Active Shooter Tabletop Exercises" for Large Passenger Vessel Operations. The Committee will receive a brief and provide recommendations on the efforts to update on this training program

(4) Public comment period.

Dated: September 24, 2016.

V.B. Gifford, Jr.,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2016–23515 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–B–1650]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before December 28, 2016.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1650, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf*.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 12, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Upper Rogue Watershed	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Jackson County, Oregon and Incorporated Areas	
City of Eagle Point	City Hall, 17 Buchanan Avenue South, Eagle Point, OR 97524.
City of Shady Cove	City Hall, 22451 Highway 62, Shady Cove, OR 97539.
Unincorporated Areas of Jackson County	Jackson County Development Services, 10 South Oakdale Avenue, Room 100, Medford, OR 97501.

II. Non-watershed-based studies:

Community	Community map repository address
Los Angeles County, California and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 13–09–0682S Preliminary Date: March 25, 2016	
City of Agoura Hills	Civic Center, 30001 Ladyface Court, Agoura Hills, CA 91301.
City of Westlake Village	City Hall, 31200 Oak Crest Drive, Westlake Village, CA 91361.
Unincorporated Areas of Los Angeles County	Public Works Headquarters, Watershed Management Division, 900 South Fremont Avenue, Alhambra, CA 91803.
Ventura County, California and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Projects: 13–09–0682S & 15–09–0445S Preliminary Date: March 25, 2016	
City of Thousand Oaks	City Hall, 2100 East Thousand Oaks Boulevard, Thousand Oaks, CA 91362.
Unincorporated Areas of Ventura County	Ventura County Public Works Agency, 800 South Victoria Drive, Ventura, CA 93009.
Burlington County, New Jersey (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 15–02–0255S Preliminary Date: April 8, 2016	
Borough of Fieldsboro	Municipal Building, 204 Washington Street, Fieldsboro, NJ 08505.
Borough of Medford Lakes	Municipal Building, Clerk's Office, 3rd Floor, 1 Cabin Circle, Medford Lakes, NJ 08055.
Borough of Palmyra	Borough Hall, 2nd Floor, 20 West Broad Street, Palmyra, NJ 08065.
Borough of Pemberton	Municipal Building, 50 Egbert Street, Pemberton, NJ 08068.
Borough of Riverton	Borough Hall, 505A Howard Street, Riverton, NJ 08077.
Borough of Wrightstown	Municipal Building, 21 Saylors Pond Road, Wrightstown, NJ 08562.
City of Beverly	City Hall, 2nd Floor, 446 Broad Street, Beverly, NJ 08010.

Community	Community map repository address
City of Bordentown	City Hall, Tax Office, 324 Farnsworth Avenue, Bordentown, NJ 08505.
City of Burlington	City Hall, Municipal Office, 525 High Street, Burlington, NJ 08016.
Township of Bass River	Bass River Township Municipal Building, 3 North Maple Avenue, New Gretna, NJ 08087.
Township of Bordentown	Municipal Building, Community Development Office, 1 Municipal Drive, Bordentown, NJ 08505.
Township of Burlington	Township Municipal Building, Engineering Department, 851 Old York Road, Burlington, NJ 08016.
Township of Chesterfield	Municipal Building, 300 Bordentown-Chesterfield Road, Chesterfield, NJ 08515.
Township of Cinnaminson	Township Building, 1621 Riverton Road, Cinnaminson, NJ 08077.
Township of Delanco	Township Hall, Clerk's Office, 770 Coopertown Road, Delanco, NJ 08075.
Township of Delran	Municipal Building, 900 Chester Avenue, Delran, NJ 08075.
Township of Eastampton	Municipal Building, 12 Manor House Court, Eastampton, NJ 08060.
Township of Edgewater Park	Township Building, 400 Delanco Road, Edgewater Park, NJ 08010.
Township of Evesham	Municipal Building, Department of Community Development, 984 Tuckerton Road, Evesham, NJ 08053.
Township of Florence	Municipal Complex, Clerk's Office, 711 Broad Street, Florence, NJ 08518.
Township of Hainesport	Township Municipal Building, 1401 Marne Highway, Hainesport, NJ 08036.
Township of Lumberton	Municipal Building, 35 Municipal Drive, Lumberton, NJ 08048.
Township of Mansfield	Mansfield Township Municipal Complex, 3135 Route 206 South, Suite 1, Columbus, NJ 08022.
Township of Maple Shade	Municipal Building, Community Development, 200 Stiles Avenue, Maple Shade, NJ 08052.
Township of Medford	Municipal Hall, 17 North Main Street, Medford, NJ 08055.
Township of Moorestown	Town Hall, Department of Community Development, 2nd Floor, 111 West 2nd Street, Moorestown, NJ 08057.
Township of Mount Holly	Municipal Building, Clerk's Office, 3rd Floor, 23 Washington Street, Mount Holly, NJ 08060.
Township of Mount Laurel	Municipal Building, 100 Mount Laurel Road, Mount Laurel, NJ 08054.
Township of New Hanover	New Hanover Township Municipal Building, 2 Hockamick Road, Cookstown, NJ 08511.
Township of North Hanover	North Hanover Township Municipal Building, 41 Schoolhouse Road, Jacobstown, NJ 08562.
Township of Pemberton	Municipal Building, 500 Pemberton-Browns Mills Road, Pemberton, NJ 08068.
Township of Riverside	Administrative Building, Construction Office, 237 South Pavilion Avenue, Riverside, NJ 08075.
Township of Shamong	Municipal Building, 105 Willow Grove Road, Shamong, NJ 08088.
Township of Southampton	Municipal Building, 5 Retreat Road, Southampton, NJ 08088.
Township of Springfield	Springfield Township Municipal Building, 2159 Jacksonville-Jobstown Road, Jobstown, NJ 08041.
Township of Tabernacle	Town Hall, 163 Carranza Road, Tabernacle, NJ 08088.
Township of Washington	Washington Township Municipal Building, Emergency Management Office, 2436 County Route 563, Egg Harbor City, NJ 08215.
Township of Westampton	Municipal Complex, Construction Office, 710 Rancocas Road, Westampton, NJ 08060.
Township of Willingboro	Township Municipal Building, 1 Reverend Dr. Martin Luther King Jr. Drive, Willingboro, NJ 08046.
Township of Woodland	Woodland Township Municipal Building, 3943 Main Street, Chatsworth, NJ 08019.

[FR Doc. 2016–23455 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4279–DR; Docket ID FEMA–2016–0001]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–4279–DR), dated September 16, 2016, and related determinations.

DATES: *Effective Date:* September 16, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated

September 16, 2016, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

> I have determined that the damage in certain areas of the State of Maryland resulting from a severe storm and flooding during the period of July 30–31, 2016, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Maryland.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.
>
> Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy Manner, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Maryland have been designated as adversely affected by this major disaster:

Howard County for Public Assistance.

All areas within the State of Maryland are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–23473 Filed 9–28–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of February 3, 2017 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 12, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Lower Suwannee Watershed	
Levy County, Florida and Incorporated Areas **Docket No.: FEMA–B–1523**	
Unincorporated Areas of Levy County	Levy County Building Department, 622 East Hathaway Avenue, Bronson, FL 32621.
Madison County, Florida and Incorporated Areas **Docket No.: FEMA–B–1523**	
Unincorporated Areas of Madison County	Madison County Building Department, 229 Southwest Pinckney Street, Madison, FL 32340.
Suwannee County, Florida and Incorporated Areas **Docket No.: FEMA–B–1523**	
Unincorporated Areas of Suwannee County	Suwannee County Planning and Zoning and Floodplain Management Office, 224 Pine Avenue Southwest, Live Oak, FL 32064.

II. Non-watershed-based studies:

Community	Community map repository address
Lubbock County, Texas and Incorporated Areas **Docket No.: FEMA–B–1539**	
City of Lubbock	City Hall, 1625 13th Street, Lubbock, TX 79401.
City of Wolfforth	City Hall, 302 Main Street, Wolfforth, TX 79382.
Unincorporated Areas of Lubbock County	Lubbock County Courthouse, 904 Broadway, Suite 101, Lubbock, TX 79401.
Grays Harbor County, Washington and Incorporated Areas **Docket No.: FEMA–B–1282 and B–1415**	
City of Aberdeen	City Hall, 200 East Market Street, Aberdeen, WA 98520.
City of Cosmopolis	City Hall, 1300 1st Street, Cosmopolis, WA 98537.
City of Hoquiam	City Hall, 609 8th Street, Hoquiam, WA 98550.
City of Ocean Shores	City Hall, 585 Point Brown Avenue Northwest, Ocean Shores, WA 98569.
City of Westport	City Hall, 604 North Montesano Street, Westport, WA 98595.
Unincorporated Areas of Grays Harbor County	Grays Harbor Administration Building, 100 West Broadway, Suite 31, Montesano, WA 98563.
Kitsap County, Washington and Incorporated Areas **Docket No.: FEMA–B–1529**	
City of Bainbridge Island	Department of Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.
City of Bremerton	Public Works and Utilities, 3027 Olympus Drive, Bremerton, WA 98310.
City of Port Orchard	Department of Community Development, 216 Prospect Street, Port Orchard, WA 98366.
City of Poulsbo	City Hall, 200 Northeast Moe Street, Poulsbo, WA 98370.
Unincorporated Areas of Kitsap County	Department of Community Development, 614 Division Street, MS–36, Port Orchard, WA 98366.

[FR Doc. 2016–23472 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–B–1649]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 12, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas: Benton	City of Rogers (16–06–2846P).	The Honorable Greg Hines, Mayor, City of Rogers, 301 West Chestnut Street, Rogers, AR 72756.	Planning and Transportation Department, 301 West Chestnut Street, Rogers, AR 72756.	*http://www.msc.fema.gov/lomc*	Nov. 18, 2016	050013
Colorado:						
Adams	City of Thornton (16–08–0189P).	The Honorable Heidi Williams, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	Engineering Services Division, 12450 Washington Street, Thornton, CO 80241.	*http://www.msc.fema.gov/lomc*	Nov. 25, 2016	080007

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Adams	Unincorporated areas of Adams County (16–08–0189P).	The Honorable Charles "Chaz" Tedesco, Chairman, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Transportation Department, 4430 South Adams County Parkway, Brighton, CO 80601.	*http://www.msc.fema.gov/lomc*	Nov. 25, 2016	080001
Broomfield	City and County of Broomfield (16–08–0401P).	The Honorable Randy Ahrens, Mayor, City and County of Broomfield, 1 DesCombes Drive, Broomfield, CO 80020.	City and County of Broomfield Engineering Department, 1 DesCombes Drive, Broomfield, CO 80020.	*http://www.msc.fema.gov/lomc*	Nov. 4, 2016	085073
Denver	City and County of Denver (16–08–0128P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*http://www.msc.fema.gov/lomc*	Nov. 28, 2016	080046
El Paso	City of Colorado Springs (16–08–0161P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	*http://www.msc.fema.gov/lomc*	Oct. 3, 2016	080060
Jefferson	Unincorporated areas of Jefferson County (15–08–0601P).	The Honorable Libby Szabo, Chair, Jefferson County, Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Golden, CO 80419.	*http://www.msc.fema.gov/lomc*	Nov. 18, 2016	080087
Weld	Town of Windsor (16–08–0495P).	Mr. Kelly Arnold, Manager, Town of Windsor, 301 Walnut Street, Windsor, CO 80550.	Town Hall, 301 Walnut Street, Windsor, CO 80550.	*http://www.msc.fema.gov/lomc*	Nov. 4, 2016	080264
Connecticut:						
Fairfield	Town of Westport (16–01–1134P).	The Honorable James S. Marpe, First Selectman, Town of Westport Board of Selectmen, 110 Myrtle Avenue, Westport, CT 06880.	Planning and Zoning Division, 110 Myrtle Avenue, Westport, CT 06880.	*http://www.msc.fema.gov/lomc*	Nov. 28, 2016	090019
Hartford	City of Bristol (16–01–0873P).	The Honorable Kenneth B. Cockayne, Mayor, City of Bristol, 111 North Main Street, 3rd Floor, Bristol, CT 06010.	City Hall, 111 North Main Street, Bristol, CT 06010.	*http://www.msc.fema.gov/lomc*	Nov. 14, 2016	090023
Delaware: Sussex	Unincorporated areas of Sussex County (16–03–1493P).	The Honorable Michael Vincent, President, Sussex County Council, P.O. Box 589, Georgetown, DE 19947.	Sussex County Planning and Zoning Department, 2 The Circle, Georgetown, DE 19947.	*http://www.msc.fema.gov/lomc*	Nov. 18, 2016	100029
Florida:						
Bay	City of Panama City (16–04–2379P).	The Honorable Greg Brudnicki, Mayor, City of Panama City, 9 Harrison Avenue, Panama City, FL 32401.	City Hall, 9 Harrison Avenue, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc*	Nov. 21, 2016	120012
Bay	Unincorporated areas of Bay County (16–04–2379P).	The Honorable Mike Nelson, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Division, 840 West 11th Street, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc*	Nov. 21, 2016	120004
Hillsborough	Unincorporated areas of Hillsborough County (16–04–3000P).	Mr. Mike Merrill, Hillsborough County Administrator, P.O. Box 1110, Tampa, FL 33601.	Hillsborough County Building Services Department, 601 East Kennedy Boulevard, 19th Floor, Tampa, FL 33602.	*http://www.msc.fema.gov/lomc*	Nov. 9, 2016	120112
Manatee	City of Bradenton (16–04–2750P).	The Honorable Wayne H. Poston, Mayor, City of Bradenton, 101 Old Main Street West, Bradenton, FL 34205.	City Hall, 101 Old Main Street West, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc*	Dec. 8, 2016	120155

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Manatee	Unincorporated areas of Manatee County (16–04–2750P).	The Honorable Vanessa Baugh, Chair, Manatee County Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	Manatee County Building and Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc*	Dec. 8, 2016	120153
Monroe	City of Key West (16–04–4341P).	The Honorable Craig Cates, Mayor, City of Key West, P.O. Box 1409, Key West, FL 33041.	Building Department, 3140 Flagler Avenue, Key West, FL 33040.	*http://www.msc.fema.gov/lomc*	Nov. 25, 2016	120168
Monroe	City of Key West (16–04–4522P).	The Honorable Craig Cates, Mayor, City of Key West, P.O. Box 1409, Key West, FL 33041.	Building Department, 3140 Flagler Avenue, Key West, FL 33040.	*http://www.msc.fema.gov/lomc*	Nov. 2, 2016	120168
Monroe	City of Marathon (16–04–4887P).	The Honorable Mark Senmartin, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc*	Nov. 14, 2016	120681
Monroe	Unincorporated areas of Monroe County (16–04–4521P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc*	Nov. 4, 2016	125129
Monroe	Unincorporated areas of Monroe County (16–04–5061P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc*	Nov. 9, 2016	125129
St. Johns	Unincorporated areas of St. Johns County (16–04–2225P).	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc*	Nov. 17, 2016	125147
St. Johns	Unincorporated areas of St. Johns County (16–04–2816P).	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc*	Oct. 28, 2016	125147
St. Johns	Unincorporated areas of St. Johns County (16–04–2941P).	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc*	Dec. 1, 2016	125147
St. Johns	Unincorporated areas of St. Johns County (16–04–4045P).	The Honorable Jeb Smith, Chairman, St. Johns County Board of Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Building Services Division, 4040 Lewis Speedway, St. Augustine, FL 32084.	*http://www.msc.fema.gov/lomc*	Oct. 21, 2016	125147
Georgia:						
Barrow	City of Statham (16–04–0966P).	The Honorable Robert Bridges, Mayor, City of Statham, P.O. Box 28, Statham, GA 30666.	Planning and Zoning Administration, 330 Jefferson Street, Statham, GA 30666.	*http://www.msc.fema.gov/lomc*	Nov. 10, 2016	130275
Columbia	City of Grovetown (16–04–2693P).	The Honorable Gary Jones, Mayor, City of Grovetown, P.O. Box 120, Grovetown, GA 30813.	City Hall, 103 Old Wrightsboro Road, Grovetown, GA 30813.	*http://www.msc.fema.gov/lomc*	Nov. 10, 2016	130265
Columbia	Unincorporated areas of Columbia County (16–04–2613P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Engineering Services Department, 630 Ronald Reagan Drive, Building A, East Wing, Evans, GA 30809.	*http://www.msc.fema.gov/lomc*	Nov. 3, 2016	130059
Columbia	Unincorporated areas of Columbia County (16–04–2693P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Engineering Services Department, 630 Ronald Reagan Drive, Building A, East Wing, Evans, GA 30809.	*http://www.msc.fema.gov/lomc*	Nov. 10, 2016	130059
Kentucky:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Warren	City of Bowling Green (15–04–9366P).	The Honorable Bruce Wilkerson, Mayor, City of Bowling Green, 1001 College Street, Bowling Green, KY 42101.	City-County Planning Commission of Warren County, 1141 State Street, Bowling Green, KY 42101.	*http://www.msc.fema.gov/lomc*	Oct. 19, 2016	210219
Warren	Unincorporated areas of Warren County (15–04–9366P).	The Honorable Michael O. Buchanon, Warren County Judge-Executive, 429 East 10th Avenue, Suite 201, Bowling Green, KY 42101.	City-County Planning Commission of Warren County, 1141 State Street, Bowling Green, KY 42101.	*http://www.msc.fema.gov/lomc*	Oct. 19, 2016	210312
Lousiana: Iberia	City of New Iberia (15–06–4117P).	The Honorable Hilda Daigre Curry, Mayor, City of New Iberia, 457 East Main Street, Suite 300, New Iberia, LA 70560.	Permit and Inspection Department, 457 East Main Street, Suite 412, New Iberia, LA 70560.	*http://www.msc.fema.gov/lomc*	Nov. 7, 2016	220082
Iberia	Unincorporated areas of Iberia Parish (15–06–4117P).	The Honorable M. Larry Richard, President, Iberia Parish, 300 Iberia Street, Suite 400, New Iberia, LA 70560.	Iberia Parish Permitting, Planning and Zoning Department, 715–A Weldon Street, New Iberia, LA 70560.	*http://www.msc.fema.gov/lomc*	Nov. 7, 2016	220078
Maine: York	Town of Kennebunkport (16–01–0716P).	The Honorable Sheila Matthews-Bull, Chair, Town of Kennebunkport, Board of Selectmen, P.O. Box 566, Kennebunkport, ME 04046.	Town Hall, 6 Elm Street, Kennebunkport, ME 04046.	*http://www.msc.fema.gov/lomc*	Nov. 28, 2016	230170
North Carolina: Burke and Catawba.	City of Hickory (15–04–A419P).	The Honorable Rudy Wright, Mayor, City of Hickory, 76 North Center Street, Hickory, NC 28601.	Planning and Development Services Department, 76 North Center Street, Hickory, NC 28601.	*http://www.msc.fema.gov/lomc*	Oct. 9. 2016	370054
Wake	Unincorporated areas of Wake County (16–04–1268P).	The Honorable James West, Chairman, Wake County Board of Commissioners, P.O. Box 550, Raleigh, NC 27602.	Wake County Environmental Services Department, Waverly F. Akins Office Building, 336 Fayetteville Street, Raleigh, NC 27601.	*http://www.msc.fema.gov/lomc*	Nov. 21, 2016	370368
North Dakota: Mackenzie.	City of Watford City (16–08–0367P).	The Honorable Brent Sanford, Mayor, City of Watford City, P.O. Box 494, Watford City, ND 58854.	Engineering Department, 200 2nd Avenue Northeast, Watford City, ND 58854.	*http://www.msc.fema.gov/lomc*	Nov. 17, 2016	380344
Oklahoma: Comanche	City of Lawton (15–06–0291P).	The Honorable Fred L. Fitch, Mayor, City of Lawton, 212 Southwest 9th Street, Lawton, OK 73501.	City Hall, 212 Southwest 9th Street, Lawton, OK 73501.	*http://www.msc.fema.gov/lomc*	Nov. 4, 2016	400049
Craig	City of Vinita (16–06–1321P).	The Honorable Ronnie Starks, Mayor, City of Vinita, 104 East Illinois Avenue, Vinita, OK 74301.	City Hall, 104 East Illinois Avenue, Vinita, OK 74301.	*http://www.msc.fema.gov/lomc*	Jan. 6, 2017	400050
Craig	Unincorporated areas of Craig County (16–06–1321P).	The Honorable H. M. "Bud" Wyatt, Associate District Judge, Craig County, 210 West Delaware Avenue, Vinita, OK 74301.	Craig County Courthouse, 210 West Delaware Avenue, Vinita, OK 74301.	*http://www.msc.fema.gov/lomc*	Jan. 6, 2017	400540
Oklahoma	City of Oklahoma City (16–06–0948P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	City Hall, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	*http://www.msc.fema.gov/lomc*	Dec. 9. 2016	405378
Pennsylvania: Columbia	Township of Mifflin (16–03–0594P).	The Honorable Ricky L. Brown, Chairman, Township of Mifflin, Board of Supervisors, P.O. Box 359, Mifflinville, PA 18631.	Township Municipal Building, East 1st Street, Mifflinville, PA 18631.	*http://www.msc.fema.gov/lomc*	Nov. 14, 201	421167
Mercer	Borough of Grove City (16–03–0874P).	The Honorable Randy L. Riddle, Mayor, Borough of Grove City, 123 West Main Street, Grove City, PA 16127.	Borough Municipal Building, 123 West Main Street, Grove City, PA 16127.	*http://www.msc.fema.gov/lomc*	Dec. 1, 201	420675

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Mercer	Township of Pine (16–03–0874P).	The Honorable Joseph N. Holmes, Chairman, Township of Pine Board of Supervisors, 545 Barkeyville Road, Grove City, PA 16127.	Township Municipal Building, 545 Barkeyville Road, Grove City, PA 16127.	*http://www.msc.fema.gov/lomc*	Dec. 1, 201	422284
South Carolina: Charleston.	Town of Sullivan's Island (16–04–5272P).	The Honorable Patrick O'Neil, Mayor, Town of Sullivan's Island, P.O. Box 427, Sullivan's Island, SC 29482.	Town Hall, 2050 B Middle Street, Sullivan's Island, SC 29482.	*http://www.msc.fema.gov/lomc*	Dec. 1, 201	455418
Texas:						
Bastrop	Unincorporated areas of Bastrop County (16–06–1114P).	The Honorable Paul Pape, Bastrop County Judge, 804 Pecan Street, Bastrop, TX 78602.	Bastrop County Tax Assessor and Development Services Department, 211 Jackson Street, Bastrop, TX 78602.	*http://www.msc.fema.gov/lomc*	Nov. 14, 2016	481193
Bexar	City of San Antonio (16–06–1670P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Nov. 17, 2016	480045
Bexar	City of San Antonio (16–06–2460P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Dec. 1, 2016	480045
Bexar	Unincorporated areas of Bexar County (16–06–2349P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	Nov. 29, 2016	480035
Brazoria	City of Manvel (16–06–0456P).	The Honorable Delores Martin, Mayor, City of Manvel, 20025 Highway 6, Manvel, TX 77578.	Development, Permits and Inspections Department, 20025 Highway 6, Manvel, TX 77578.	*http://www.msc.fema.gov/lomc*	Nov. 25, 2016	480076
Brazoria	City of Pearland (16–06–0456P).	The Honorable Tom Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, TX 77581.	Engineering Division, 3519 Liberty Drive, Pearland, TX 77581.	*http://www.msc.fema.gov/lomc*	Nov. 25, 201	480077
Brazoria	Unincorporated areas of Brazoria County (16–06–0456P).	The Honorable L.M. "Matt" Sebesta, Jr., Brazoria County Judge, 111 East Locust Street, Angleton, TX 77515.	Brazoria County Floodplain Department, 111 East Locust Street Building A–29, Suite 210, Angleton, TX 77515.	*http://www.msc.fema.gov/lomc*	Nov. 25, 2016	485458
Collin	City of McKinney (16–06–0106P).	The Honorable Brian Loughmiller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	*http://www.msc.fema.gov/lomc*	Nov. 28, 2016	480135
Collin	City of Sachse (16–06–0186P).	The Honorable Mike Felix, Mayor, City of Sachse, 3815 Sachse Road, Building B, Sachse, TX 75048.	City Hall, 3815 Sachse Road, Building B, Sachse, TX 75048.	*http://www.msc.fema.gov/lomc*	Oct. 31, 2016	480186
Collin	City of Wylie (16–06–0186P).	The Honorable Eric Hogue, Mayor, City of Wylie, 300 Country Club Road, Building 100, Wylie, TX 75098.	City Hall, 300 Country Club Road, Building 100, Wylie, TX 75098.	*http://www.msc.fema.gov/lomc*	Oct. 31, 201	480759
Denton	Town of Trophy Club (16–06–1485P).	The Honorable Nick Sanders, Mayor, Town of Trophy Club, 100 Municipal Drive, Trophy Club, TX 76262.	Community Development Department, 100 Municipal Drive, Trophy Club, TX 76262.	*http://www.msc.fema.gov/lomc*	Nov. 28, 201	480606
Ellis	City of Waxahachie (16–06–1354P).	The Honorable Kevin Strength, Mayor, City of Waxahachie, 401 South Rogers Street, Waxahachie, TX 75165.	City Municipal Court, 401 South Rogers Street, Waxahachie, TX 75165.	*http://www.msc.fema.gov/lomc*	Nov. 14, 201	480211
Ellis	Unincorporated areas of Ellis County (16–06–1354P).	The Honorable Carol Bush, Ellis County Judge, 101 West Main Street, Waxahachie, TX 75165.	Ellis County Historic Courthouse, 101 West Main Street, Waxahachie, TX 75165.	*http://www.msc.fema.gov/lomc*	Nov. 14, 201	480798

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Guadalupe	City of Seguin (16–06–0919P).	The Honorable Don Keil, Mayor, City of Seguin, P.O. Box 591, Seguin, TX 78156.	Planning Department, 205 North River Street, Seguin, TX 78155.	*http://www.msc.fema.gov/lomc*	Nov. 21, 201	485508
Harris	City of Deer Park (16–06–0467P).	The Honorable Jerry Mouton Jr., Mayor, City of Deer Park, P.O. Box 700, Deer Park, TX 77536.	Public Works Department, 710 East San Augustine Street, Deer Park, TX 77536.	*http://www.msc.fema.gov/lomc*	Nov. 14, 201	480291
Harris	Unincorporated areas of Harris County (15–06–3864P).	The Honorable Edward M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Nov. 18, 201	480287
Travis	City of Pflugerville (16–06–0599P).	The Honorable Jeff Coleman, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78660.	Development Services Center, 201–B East Pecan Street, Pflugerville, TX 78691.	*http://www.msc.fema.gov/lomc*	Nov. 21, 201	481028
Travis	Unincorporated areas of Travis County (16–06–0599P).	The Honorable Sarah Eckhardt, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Engineering Department, 700 Lavaca Street, Austin, TX 78767.	*http://www.msc.fema.gov/lomc*	Nov. 21, 201	481026
Williamson	Unincorporated areas of Williamson County (15–06–3486P).	The Honorable Dan A. Gattis, Williamson County Judge, 710 South Main Street, Suite 101, Georgetown, TX 78626.	Williamson County Engineering Department, 3151 Southeast Inner Loop, Suite B, Georgetown, TX 78626.	*http://www.msc.fema.gov/lomc*	Nov. 10, 201	481079
Utah: Grand	Unincorporated areas of Grand County (15–08–1440P).	The Honorable Elizabeth Tubbs, Chair, Grand County Council, 125 East Center Street, Moab, UT 84532.	Grand County Courthouse, 125 East Center Street, Moab, UT 84532.	*http://www.msc.fema.gov/lomc*	Nov. 14, 201	490232
Virginia: Roanoke	Unincorporated areas of Roanoke County (16–03–0403P).	Mr. Thomas C. Gates, Roanoke County Administrator, 5204 Bernard Drive, Suite 402, Roanoke, VA 24018.	Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, VA 24018.	*http://www.msc.fema.gov/lomc*	Dec. 2, 201	510190

[FR Doc. 2016–23470 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0002; Internal Agency Docket No. FEMA–B–1651]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before December 28, 2016.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1651, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 12, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

LOWER SUWANNEE WATERSHED

Community	Community map repository address
Dixie County, Florida and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Town of Cross City	Town Hall, 99 Northeast 210th Avenue, Cross City, FL 32628.
Unincorporated Areas of Dixie County	Dixie County Building and Zoning Department, 387 Southeast 22nd Avenue, Cross City, FL 32628.

[FR Doc. 2016–23465 Filed 9–28–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2016–0125; FXIA16710900000–156–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
80786B	Phoenix Herpetological Society	81 FR 8093; February 17, 2016	September 19, 2016.
10982A	The Austin Savanna	81 FR 10884; March 2, 2016	August 16, 2016.
80238B	New York University	81 FR 23745; April 22, 2016	September 15, 2016.
679476	Sunset Zoological Park	81 FR 23745; April 22, 2016	September 6, 2016.
90881B	Daniel Sterantino	81 FR 27169; May 5, 2016	September 6, 2016.
85554B	Nashville Zoo	81 FR 27169; May 5, 2016	September 12, 2016.
99852B	Kristian O'Meara	81 FR 46698; July 18, 2016	September 12, 2016.

MARINE MAMMALS

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
84799B	Texas A&M University	81 FR 29889; May 13, 2016	September 20, 2016.
78234B	Natural History Museum of Los Angeles County	81 FR 33700; May 27, 2016	September 16, 2016.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–23461 Filed 9–28–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2016–0124;FXIA16710900000–156–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before October 31, 2016. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by October 31, 2016.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2016–0124.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2016–0124; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government," and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Phoenix Herpetological Society, Scottsdale, AZ; PRT–90722B

The applicant requests a permit to export two male and two female captive bred Grand Cayman blue iguanas (*Cyclura lewisi*) for the purpose of enhancement of the survival of the species.

Applicant: Fred Gage, La Jolla, CA; PRT–99616B

The applicant requests a permit to import biological samples from captive bred Sumatran orangutan (*Pongo abelii*) for the purpose of scientific research.

Applicant: Panther Ridge Conservation Center, Wellington, FL; PRT–203027

The applicant requests amendment of an existing captive-bred wildlife registration under 50 CFR 17.21(g) to add the following species to enhance species propagation or survival: Leopard (*Panthera pardus*) and cheetah (*Acinonyx jubatus*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: William Ahrens, Marvin, NC; PRT–86901B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Radiated tortoise (*Astrochelys radiata*), Bolson tortoise (*Gopherus flavomarginatus*), aquatic box turtle (*Terrapene coahuila*), and Galapagos tortoise (*Chelonoidis nigra*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Phoenix Herpetological Society, Scottsdale, AZ; PRT–19818A

The applicant requests amendment of an existing captive-bred wildlife registration under 50 CFR 17.21(g) to add the following species to enhance species propagation or survival: Cuban crocodile (*Crocodylus rhombifer*), saltwater crocodile (*Crocodylus porosus*), Philippine crocodile (*Crocodylus mindorensis*), African slender-snouted crocodile (*Crocodylus cataphractus*), freshwater crocodile (*Crocodylus johnstoni*), Orinoco crocodile (*Crocodylus intermedius*), Chinese alligator (*Alligator sinensis*), Dwarf crocodile (*Osteolaemus tetraspis tetraspis*), broad-snouted caiman (*Caiman latirostris*), black caiman (*Melanosuchus niger*), and tomistoma (*Tomistoma schlegelii*). This notification covers activities to be conducted by the applicant over a 5-year period.

B. Endangered Marine Mammals and Marine Mammals

Applicant: SeaWorld, LLC, San Diego, CA; PRT–02152C

The applicant requests a permit for public display of one Pacific walrus (*Odobenus rosmarus divergens*) which had been found as an abandoned calf near Barrow, Alaska, was rescued, rehabilitated, and subsequently deemed non-releasable by the U.S. Fish and Wildlife Service because the calf did not have the necessary skills to survive in the wild.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–23460 Filed 9–28–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N023; FXES11120100000–167–FF01E00000]

Proposed Roseburg Resources Co. Safe Harbor Agreement for the Northern Spotted Owl and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Roseburg Resources Co. for an Endangered Species Act (ESA) Enhancement of Survival Permit (permit) for take of the federally threatened northern spotted owl. The permit application includes a draft Safe Harbor Agreement (SHA) addressing Service access to Roseburg Resources Co. lands for the survey and removal of barred owls as part of the Service's Barred Owl Removal Experiment in Douglas County, Oregon. In response to the permit application, the Service has prepared a draft environmental assessment (EA) addressing the permit action. We are making the permit application, including the draft SHA and the draft EA, available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties by October 31, 2016.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Roseburg Resources Co. draft SHA and draft EA.

- *Internet:* Documents may be viewed and downloaded on the Internet at *http://www.fws.gov/ofwo/.*
- *Email: barredowlsha@fws.gov.* Include "Roseburg Resources Co. SHA" in the subject line of the message.
- *U.S. Mail:* Robin Bown; U.S. Fish and Wildlife Service; Oregon Fish and Wildlife Office; 2600 SE 98th Ave., Suite 100, Portland, OR 97266.
- *Fax:* 503–231–6195.
- *In-Person Drop-off, Viewing, or Pickup:* Call 503–231–6970 to make an appointment (necessary for viewing or pickup only) during regular business hours at the U.S. Fish and Wildlife Service; Oregon Fish and Wildlife Office; 2600 SE 98th Ave., Suite 100; Portland, OR 97266. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Robin Bown, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone 503–231–6179. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Roseburg Resources Co. has applied to the Service for a permit under section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*). The permit application includes a draft SHA. The Service has drafted an EA addressing the effects of the proposed permit action on the human environment.

The SHA covers approximately 45,100 acres of forest lands owned by the Roseburg Resources Co. where timber management activities will occur within the experiment treatment portion of the Union/Myrtle (Klamath) Study Area near Canyonville in Douglas County, Oregon. The SHA addresses timber management activities only in the treatment portion of the study area on Roseburg Resources Co. lands. Impacts to the threatened northern spotted owl (*Strix occidentalis caurina*) (spotted owl) associated with the experiment in non-treatment portions of the study area are addressed in an environmental assessment prepared by the Service for the experiment (Service 2013a. Final Environmental Impact Statement for the Experimental Removal of Barred Owls to Benefit Threatened Spotted Owls. Portland, Oregon). The proposed term of the permit and the SHA is 10 years. In return for permission to access their lands for barred owl (*Strix varia*) surveys and removal in support of the experiment, the permit would authorize take of the spotted owl caused by forest management activities on Roseburg Resources Co. lands at currently unoccupied, non-baseline sites that may be re-occupied by spotted owls as a result of barred owl removal for the term of the permit.

Background

Under a SHA, participating landowners voluntarily undertake activities on their property to benefit species listed under the ESA. SHAs and their associated permits are intended to encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the landowners that they will not be subjected to increased property use restrictions as a result of their conservation efforts. One of the issuance criteria for a SHA is that it must provide a net conservation benefit for the covered species.

The assurances provided under a SHA and its associated permit allow the property owner to alter or modify the enrolled property to agreed-upon baseline conditions, even if such alteration or modification results in the incidental take of a listed species, provided the obligations in the SHA and the terms and conditions of the permit have been satisfied. The baseline conditions represent the existing levels of use of the property by the species covered in the SHA at the time the SHA is established. The SHA assurances are contingent on the property owner complying with the obligations in the SHA and the terms and conditions of the permit. The SHA's net conservation benefit must be sufficient to contribute, either directly or indirectly, to the recovery of the covered listed species.

Permit application requirements and issuance criteria for SHAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c). The Service's Safe Harbor Policy (64 FR 32717, June 17, 1999) and the Safe Harbor Regulations (68 FR 53320, September 10, 2003; and 69 FR 24084, May 3, 2004) are available at *http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html.*

Roseburg Resources Co. Safe Harbor Agreement

The proposed Roseburg Resources Co. SHA addresses Service access to lands administered by the company in support of implementing the experiment (Service 2013a. Final Environmental Impact Statement for the Experimental Removal of Barred Owls to Benefit Threatened Spotted Owls. Portland, Oregon) in the Union/Myrtle (Klamath) Study Area in Douglas County, Oregon. The SHA covers about 45,100 acres of Roseburg Resources Co. lands where timber management activities will occur within the treatment portion of the Union/Myrtle (Klamath) Study Area. The entire treatment area covers lands owned by many different landowners. The treatment area includes 49 percent Federal lands, <1 percent State lands, 27 percent private lands not owned by the company, and 24 percent Roseburg Resources Co. lands. If barred owl removal leads to the re-occupancy of currently unoccupied sites by spotted owls on Roseburg Resources Co. lands, some restrictions or limitations on forest management activities on these lands could occur in the absence of the proposed SHA and permit. Activities covered under the SHA in the treatment portion of the study area are routine forest management activities: Timber harvest; road maintenance and construction activities; and rock pit development.

The goal of the Roseburg Resources Co. in participating in this SHA is to continue to manage their Oregon timberlands utilizing forest practices and provide certainty of those forest practices achieving economic, community and stewardship values on a long-term sustained yield basis while meeting State and Federal regulatory requirements. The Roseburg Resources Co. lands within the study area are a critically important part of the company's overall operating plans from both a short-term and long-term perspective with ongoing forest practices and management activities scheduled in accordance with their management plan. Absent a SHA and permit the Roseburg Resources Co. anticipates potential impacts to their operations as the experiment is implemented and maintained, including but not limited to significant changes and fluctuations regarding spotted owl occupancy status of well surveyed sites and areas on or near Roseburg Resources Co. lands in the treatment area after barred owl removal occurs, and potentially short-term regulatory impacts on or near Roseburg Resources Co. lands after barred owl removal in the treatment area occurs.

The purpose of the Roseburg Resources Co.'s participation in the experiment under a SHA is to demonstrate continued good faith cooperation with the Service regarding this recovery action, and to obtain ESA regulatory assurances during and after the experiment period.

To support the experiment, under the SHA the Roseburg Resources Co. will provide the researchers access to the company's lands to survey barred owls within the study area, and to remove barred owls located on Roseburg Resources Co. lands within the treatment portion of the study area. In addition, the Roseburg Resources Co. will defer management activities to support actively nesting spotted owls on any reoccupied, non-baseline spotted owl sites during the nesting season.

The Service's Proposed Action

The Service proposes to enter into the SHA and to issue a permit to the Roseburg Resources Co. for take of the northern spotted owl caused by covered activities, if permit issuance criteria are met. The permit would have a term of 10 years, and would be effective on the date of issuance.

As a result of the continued monitoring of spotted owls on Roseburg Resources Co. lands as part of ongoing spotted owl surveys conducted under the Northwest Forest Plan Monitoring program, we have robust annual survey data for the area that was used to establish a baseline for the SHA based on the estimated current occupancy status of each spotted owl site. Any spotted owl sites where a response was detected from at least one resident spotted owl between 2014 and present are considered in the baseline for the SHA and would not be subject to take authorization under the SHA and the permit. Based on this approach, there are 30 baseline (*i.e.,* currently occupied) and 33 non-baseline (*i.e.,* currently unoccupied) spotted owl sites in the treatment portion of the study area where the Roseburg Resources Co. owns lands.

The conservation benefit for the northern spotted owl under the SHA arises from the Roseburg Resources Co.'s contribution to our assessment under the experiment of the efficacy of barred owl removal to the recovery of the spotted owl by their allowing Service access to their roads and lands for barred owl surveys and, within the treatment area, barred owl removal. In the study area landscape of multiple landowners, access to interspersed non-Federal roads and lands for barred owl surveys and, within the treatment area, barred owl removal is important to the efficient and effective completion of the experiment.

The impact of the increase in non-native barred owl populations as they expand in the range of the spotted owls has been identified as one of the primary threats to the continued existence of the spotted owl. The Recovery Plan for the Northern Spotted Owl includes Recovery Action 29—"Design and implement large-scale control experiments to assess the effects of barred owl removal on spotted owl site occupancy, reproduction, and survival" (Service 2011. Revised Recovery Plan for the Spotted Owl (*Strix occidentalis caurina*), p. III–65. Portland, Oregon). The Service developed the experiment to implement this Recovery Action, and prepared a FEIS and ROD in 2013 addressing this action (Service 2013a. Final Environmental Impact Statement for the Experimental Removal of Barred Owls to Benefit Threatened Spotted Owls. Portland, Oregon; and Service 2013b. Record of Decision for the Experimental Removal of Barred Owls to Benefit Threatened Spotted Owls. Portland, Oregon). The experiment includes on four study areas, including the Union/Myrtle (Klamath) Study Area. Timely results from this experiment are crucial for informing the development of a long-term barred owl management strategy that is essential to the conservation of the northern spotted owl.

While the experiment can be conducted without access to non-Federal lands, failure to remove barred owls from portions of the treatment area could reduce the efficiency and weaken the results of the experiment regarding any changes in spotted owl population dynamics resulting from the removal of barred. These circumstances may warrant extending the duration of the experiment to offset these implications. The Service has repeatedly indicated the need to gather this information in a timely manner.

Take of spotted owls under this SHA would likely be in the form of harm from forest operation activities that result in habitat degradation, or harassment from forest management activities that cause disturbance to spotted owls. Incidental take in the form of harassment by disturbance is most likely to occur near previously occupied spotted owl nest sites if they become reoccupied. Harm and harassment could occur during timber operations and management that will continue during the permit term. Covered activities under the SHA are routine timber harvest, road maintenance, and road construction activities, including rock pit development that may disturb spotted owls.

Net Conservation Benefit to the Northern Spotted Owl

As discussed above, Service access to Roseburg Resources Co. lands provided for under the SHA is important to the efficient and effective completion of the experiment within a reasonable timeframe. Under the SHA, all of the currently occupied spotted owl sites on these lands are within the baseline for the SHA and no take of spotted owls at these sites is would be authorized under the proposed permit. Under the permit, if barred owl removal does allow spotted owls to reoccupy non-baseline sites that are not currently occupied, Roseburg Resources Co. will be allowed to incidentally take these spotted owls during the term of the permit. It is highly unlikely that these sites would ever be reoccupied by spotted owls without the removal of barred owls.

The removal of barred owls on the Union/Myrtle (Klamath) Study Area will end within 10 years. The Service anticipates that, once released from the removal pressure, barred owl populations will rebound to pre-treatment levels within 3 to 5 years. This is likely to result in the loss of the spotted owl newly reoccupied sites. Therefore, any spotted owl occupancy of these sites is likely to be temporary and short-term.

The proposed SHA and permit allow for the incidental take of spotted owls at 33 non-baseline (*i.e.,* currently unoccupied) sites in the treatment portion of the Union/Myrtle (Klamath) Study Area if these sites become reoccupied during the barred owl removal study. As discussed above, incidental take of spotted owls at non-baseline owl sites that may be reoccupied can result from disturbance (*e.g.,* noise) from forest management activities or habitat loss. Disturbance with no habitat loss is a temporary effect and is not anticipated to disrupt the spotted owl sites to a level that would affect the results of the experiment. The vast majority of the historic spotted owl site centers in the treatment area occur on BLM lands, though a few may occur on Roseburg Resources Co. lands. Some of these sites may lie close enough to forest management activities on Roseburg Resources Co. lands such that disturbance of spotted owls could result if these site centers were reoccupied. Take of spotted owls resulting from disturbance to an extent that creates the likelihood of injury is anticipated to be temporary, short-term, and only likely to occur if forest management activities occur very close to nesting spotted owls.

The Roseburg Resources Co. is a minor owner on 10 of the 33 baseline sites for the spotted owl, with less than 10 percent of the land ownership and less than 10 percent of the remaining spotted owl nesting/roosting habitat at these sites. Federal lands contain the majority of the remaining spotted owl nesting/roosting habitat on 8 of these sites, while private lands contain the majority of the remaining habitat at 2 of the 10 sites. Most of the Federal lands are in reserve management designations and harvest of spotted owl habitat is not likely. Thus, assuming these 8 non-baseline spotted owl sites are re-occupied by spotted owls, and the Roseburg Resources Co. removed all spotted owl habitat remaining on their lands within these sites under their permit, some of these sites are likely to remain viable as a result of habitat remaining on Federal lands.

On the remaining 23 sites, the Roseburg Resources Co. owns 10 to 62 percent of the land and 11 to 62 percent of remaining spotted owl nesting/roosting habitat. Habitat removal within these nesting and roosting sites could result in loss of habitat suitability leading to take of spotted owls if they reoccupy these sites. To avoid or minimize the take resulting from disturbance and habitat loss associated with timber management activities on their lands, the Roseburg Resources Co. will defer management activities to support nesting spotted owls that may reoccupy non-baseline sites during the nesting and rearing season (March 1 to September 30 of the year). This would allow the spotted owl pairs at these sites to potentially produce young and contribute to the future spotted owl population.

As discussed above, the primary conservation value of the experiment is the information it provides on the efficacy of removal as a tool to manage barred owl populations for the conservation of the spotted owl at the range-wide scale. In the landscape of multiple landowners that exists within the Union/Myrtle (Klamath) Study Area, researcher access to interspersed non-Federal lands for barred owl surveys and removal that is important to the efficient and effective completion of the experiment within a reasonable time frame would be provided under the Roseburg Resources Co. SHA. On that basis, the Service finds that the take of spotted owls on the temporarily reoccupied sites is potentially greatly offset by the value of the information gained from the experiment and its potential contribution to the range-wide recovery of the spotted owl by the timely development of a long-term barred owl management strategy. For this reason, the Service believes this SHA would advance the recovery of the spotted owl.

National Environmental Policy Act Compliance

The Service's entering into the proposed SHA and issuance of a permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA). We have prepared a draft EA to analyze the impacts of this proposed action on the human environment in comparison to the no-action alternative.

Public Comments

You may submit comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, new information, or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested party on our proposed Federal action. In particular, we request information and comments regarding the following issues:

1. The direct, indirect, and cumulative effects that implementation of the SHA could have on endangered and threatened species;
2. Other reasonable alternatives consistent with the purpose of the proposed SHA as described above, and their associated effects;
3. Measures that would minimize and mitigate potentially adverse effects of the proposed action;
4. Identification of any impacts on the human environment that should have been analyzed in the draft EA pursuant to NEPA;
5. Other plans or projects that might be relevant to this action;
6. The proposed term of the permit and whether the proposed SHA would provide a net conservation benefit to the spotted owl; and
7. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we used in preparing the draft EA, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

We will evaluate the draft SHA, associated documents, and any public comments we receive to determine whether the permit application and the EA meet the requirements of section 10(a) of the ESA and NEPA, and their respective implementing regulations. We will also evaluate whether issuance of a permit would comply with section 7(a)(2) of the ESA by conducting an intra-Service section 7 consultation on the proposed permit action. If we determine that all requirements are met, we will sign the proposed SHA and issue a permit under section 10(a)(1)(A) of the ESA to the Roseburg Resources Co., for take of the northern spotted owl caused by covered activities in accordance with the terms of the permit and the SHA. We will not make our final decision until after the end of the 30-day public comment period, and until we fully consider all comments and information we receive during the public comment period.

Authority

We provide this notice pursuant to section 10(c) of the ESA, its implementing regulations (50 CFR 17.22), and NEPA and its implementing regulations (40 CFR 1506.6).

Theresa Rabot,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2016–23528 Filed 9–28–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX16EF00PMEXP00]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Department of the Interior.

ACTION: Notice of revision to a currently approved information collection, (1028–0092).

SUMMARY: We (the U.S. Geological Survey) are notifying the public that we have submitted to the Office of Management and Budget (OMB) the Information Collection Request (ICR) described below. To comply with the Paperwork Reduction Act of 1995 (PRA) and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on September 30, 2016.

DATES: To ensure that your comments on this ICR are considered, OMB must receive them on or before October 31, 2016.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), Attention: Desk Officer for the Department of the Interior, via email: (*OIRA_SUBMISSION@omb.eop.gov*); or by fax (202) 395–5806; and identify your submission with 'OMB Control Number 1028–0092 The National Map: Topographic Data Grants Program.' Please also forward a copy of your comments and suggestions on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'OMB Information Collection 1028–0092: The National Map: Topographic Data Grants Program' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Anthony Martin, National Geospatial Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 511, Reston, VA 20192 (mail); 703–648–4542 (phone); or *amartin@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Geospatial Program (NGP) of the U.S. Geological Survey (USGS) contributes funding for the collection of geospatial data which increases the development of *The National Map* and other national geospatial databases. NGP will accept applications from Private Industry, state, local or tribal Governments to supplement current data collection programs in order to fulfill the growing and present need for current and accurate geospatial data. Awarded projects must complete brief monthly progress reports and a final technical report at the end of the project period. All application instructions and forms are available on *Grants.gov* (*http://www.grants.gov*). All reports will be accepted electronically via email.

II. Data

OMB Control Number: 1028–0092.

Form Number: N/A.

Title: The National Map: Topographic Data Grants Program.

Type of Request: Revision of a currently approved information collection.

Respondent Obligation: Required to obtain or retain benefits.

Frequency of Collection: Annually and monthly.

Description of Respondents: State, Local, Tribal Government; and Private Industry.

Estimated Total Number of Annual Responses: We estimate 280 responses will be covered under this collection that includes the initial responses, the monthly, and final reports from the awarded. 75 of these reports will come from Private Industry and 205 reports from State, Local and Tribal Governments.

Estimated Time per Response: The U.S. Geological Survey (USGS) foresees 61 hours of time will be needed to complete the necessary submissions which will include the narrative and supporting documentation. We believe that reading the requirements as well as development, proposal writing, reviewing and submission of the proposal application via *Grants.gov* will require 61 hours per applicant. Monthly and final project reports must be submitted by the award recipient. The prior month's progress must be submitted within the report 7 days following the start of the new month. The monthly report will take at least 1 hour to prepare. The final report must be submitted within 90 calendar days of the end of the project period. USGS estimates that approximately 20 hours will be needed to complete the final report.

Estimated Annual Burden Hours: When calculating the total number of hours that will be used including State, local, tribal and private respondents 3060 hours will be needed.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: There are no "non-hour cost" burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. Until the OMB approves a collection of information, you are not obliged to respond.

Comments: On 4/29/2016, we published a 81 **Federal Register** Notice 25690/Friday, April 29, 2016. Notices announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on 6/28/2016. We received no comments.

III. Request for Comments

We again invite comments concerning this ICR as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information; (c) How to enhance the quality, usefulness, and clarity of the information to be collected; and (d) How to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us and the OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Julia Fields,

Deputy Director, National Geospatial Program.

[FR Doc. 2016–23471 Filed 9–28–16; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000.L10200000.DF0000. LXSSH1050000.16XL1109AF; HAG 16–0225]

Notice of Public Meeting for the Southeast Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the Southeast Oregon Resource Advisory Council (RAC) will meet as indicated below:

DATES: The Southeast Oregon RAC will hold a public meeting Monday and Tuesday, October 17 and 18, 2016. The meeting begins on Monday at 12 p.m. and ends at 5:00 p.m. The following day, Tuesday, October 18, the meeting will begin at 8 a.m. and end at noon. The agenda will be released online at *http://www.blm.gov/or/rac/seorrac.php* prior to the meeting. Tentative agenda items for the meeting include updates on the Tri-State Fuels Project and more. Any other matters that may reasonably come before the Southeast Oregon RAC may also be addressed. A public comment period will be available during the meeting at a time to be determined. Unless otherwise approved by the Southeast Oregon RAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the Southeast Oregon RAC for a maximum of 5 minutes. Meeting times and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate necessary business and all who seek to be heard regarding matters before the Southeast Oregon RAC.

ADDRESSES: The meeting will be held at the Burns BLM offices, 28910 Highway 20 West Hines, OR 97738. The telephone conference line number for the meeting is 1–866–524–6456, Participant Code: 608605.

FOR FURTHER INFORMATION CONTACT: Larry Moore, Public Affairs Specialist, BLM Vale District Office, 100 Oregon Street, Vale, Oregon 97918, (541) 473–6218 or *l2moore@blm.gov* . Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Southeast Oregon RAC consists of 15 members chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM and Forest Service resource managers regarding management plans and proposed resource actions on public land in southeast Oregon. This meeting is open to the public in its entirety. Information to be distributed to the Southeast Oregon RAC is requested prior to the start of each meeting.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Donald Gonzalez,

Vale District Manager.

[FR Doc. 2016–23579 Filed 9–28–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM950000 L13400000.BX0000 16XL1109AF]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Carlos Martinez at 505–954–2096, or by email at *cjjmarti@blm.gov,* for assistance. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico (NM)

The Supplemental plat, representing the dependent resurvey in Township 9 South, Range 30 East, of the New Mexico Principal Meridian, accepted June 28, 2016 for Group, 1178, NM.

The plat, representing the dependent resurvey in Township 19 North, Range 11 West, of the New Mexico Principal Meridian, accepted July 20, 2016 for Group, 909, NM. The plat, representing the dependent resurvey in Fractional Township 27 North, Range 21 West, of the New Mexico Principal Meridian, accepted September 21, 2016 for Group, 1172, NM.

The plat representing the dependent resurvey in Township 14 North, Range 17 West, of the New Mexico Principal Meridian, accepted September 21, 2016 for Group, 1175, NM. The plat representing the dependent resurvey in Township 11 North, Range 10 West, of the New Mexico Principal Meridian, accepted September 21, 2016 for Group, 1176, NM. The plat representing the dependent resurvey in Township 11 North, Range 6 East, of the New Mexico Principal Meridian, accepted September 21, 2016 for Group, 1166, NM. These plats are scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of Protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Charles I. Doman,

Branch Chief, Cadastral Survey.

[FR Doc. 2016–23524 Filed 9–28–16; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–545–547 and 731–TA–1291–1297 (Final)]

Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that an industry in the United States is materially injured by reason of imports of certain hot-rolled steel flat products (“hot-rolled steel”) from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom, provided for in subheadings 7208.10.15, 7208.10.30, 7208.10.60, 7208.25.30, 7208.25.60, 7208.26.00, 7208.27.00, 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7208.90.00, 7210.70.30, 7210.90.90, 7211.14.00, 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, 7211.19.75, 7211.90.00, 7212.40.10, 7212.40.50, 7212.50.00, 7214.91.00, 7214.99.00, 7215.90.50, 7225.11.00, 7225.19.00, 7225.30.30, 7225.30.70, 7225.40.70, 7225.99.00, 7226.11.10, 7226.11.90, 7226.19.10, 7226.19.90, 7226.91.50, 7226.91.70, 7226.91.80, 7226.99.01, and 7228.60.60 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”), and that have been found by Commerce to be subsidized by the governments of Brazil and Korea.[2] The Commission further finds that imports of hot-rolled steel that have been found by Commerce to be subsidized by the government of Turkey are negligible. The Commission also finds that imports subject to

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Irving A. Williamson, Vice Chairman David S. Johanson, and Commissioners Dean A. Pinkert, Meredith M. Broadbent, and Rhonda K. Schmidtlein voted in the affirmative with respect to imports from Australia, Brazil, Japan, Korea, the Netherlands, and the United Kingdom and with respect to imports sold at less than fair value from Turkey. Commissioner F. Scott Kieff voted in the affirmative with respect to imports from Brazil, Japan, Korea, the Netherlands, and the United Kingdom and with respect to imports sold at less than fair value from Turkey; he voted in the negative with respect to imports from Australia. All six Commissioners found that imports of these products from Turkey that Commerce has determined are subsidized by the government of Turkey are negligible.

Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on hot-rolled steel from Brazil and the antidumping duty order on imports from Japan.

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective August 11, 2015, following receipt of a petition filed with the Commission and Commerce by AK Steel Corporation (West Chester, Ohio), ArcelorMittal USA, LLC (Chicago, Illinois), Nucor Corporation (Charlotte, North Carolina), SSAB Enterprises, LLC (Lisle, Illinois), Steel Dynamics, Inc. (Fort Wayne, Indiana), and United States Steel Corporation (Pittsburgh, Pennsylvania). The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of hot-rolled steel from Brazil[3] were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom were dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on April 15, 2016 (81 FR 22310). The hearing was held in Washington, DC, on August 4, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on September 26, 2016. The views of the Commission are contained in USITC Publication 4638 (September 2016), entitled *Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom (Investigation Nos. 701–TA–545–547 and 731–TA–1291–1297 (Final)).*

By order of the Commission.

Issued: September 26, 2016.

Katherine Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–23572 Filed 9–28–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–965]

Certain Table Saws Incorporating Active Injury Mitigation Technology and Components Thereof; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge ("ALJ") has issued a recommended determination on remedy and bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically limited exclusion orders and cease and desist orders, against certain table saws incorporating active injury mitigation and components thereof, imported by respondents Robert Bosch Tool Corporation of Mount Prospect, Illinois, and Robert Bosch GmbH of Baden-Wuerttemberg, Germany. Parties are to file public interest submissions pursuant to Commission regulations.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease-and-desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file, pursuant to 19 CFR 210.50(a)(4), submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on September 20, 2016. Comments should address whether issuance of limited exclusion orders and cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended limited exclusion orders and cease and desist orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended limited exclusion orders and cease and desist orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended limited exclusion orders and cease and desist orders within a commercially reasonable time; and

(v) explain how the recommended limited exclusion orders and cease and desist orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on October 18, 2016.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 965") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

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[3] The Commission also scheduled final-phase countervailing duty investigations concerning hot-rolled steel from Korea and Turkey, although Commerce preliminarily determined that *de minimis* countervailable subsidies were being provided to hot-rolled steel producers and exporters from Korea and Turkey.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CCFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 26, 2016.

Katherine Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–23571 Filed 9–28–16; 8:45 am]

BILLING CODE 7020–02–P

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[1] All contract personnel will sign appropriate nondisclosure agreements.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–833]

Certain Digital Models, Digital Data, and Treatment Plans for Use in Making Incremental Dental Positioning Adjustment Appliances, the Appliances Made Therefrom, and Methods of Making the Same Rescission of Cease and Desist Orders; Termination of an Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to rescind the cease and desist orders issued in this investigation and to terminate the investigation with a finding of no violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("Section 337").

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on April 5, 2012, based upon a complaint filed on behalf of Align Technology, Inc., of San Jose, California ("Align"), on March 1, 2012, as corrected on March 22, 2012. 77 FR 20648 (April 5, 2012). The complaint alleged violations of Section 337 in the sale for importation, importation, or sale within the United States after importation of certain digital models, digital data, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and methods of making the same by reason of infringement of certain claims of U.S. Patent No. 6,217,325 ("the '325 patent"); U.S. Patent No. 6,471,511 ("the '511 patent"); U.S. Patent No. 6,626,666 ("the '666 patent"); U.S. Patent No. 6,705,863 ("the '863 patent"); U.S. Patent No. 6,722,880 ("the '880 patent"); U.S. Patent No. 7,134,874 ("the '874 patent"); and U.S. Patent No. 8,070,487 (the '487 patent"). The notice of institution named as respondents ClearCorrect Pakistan (Private), Ltd. of Lahore, Pakistan ("CCPK") and ClearCorrect Operating, LLC of Houston, Texas ("CCUS") (collectively, "the Respondents"). A Commission investigative attorney ("IA") participated in the investigation.

On May 6, 2013, the presiding administrative law judge ("ALJ") issued his final initial determination ("ID"), finding a violation of Section 337 with respect to the '325 patent, the '880 patent, the '487 patent, the '511 patent, the '863 patent, and the '874 patent. He found no violation as to the '666 patent. The ALJ recommended the issuance of cease and desist orders directed to the Respondents.

After receiving briefing from the parties and the public, on April 3, 2014, the Commission issued notice of its determination to affirm-in-part, modify-in-part, and reverse-in-part the final ID and to find a violation of Section 337. 79 FR 19640–41 (Apr. 9, 2014). The Commission found a violation of Section 337 with respect to (i) claims 1 and 4–8 of the '863 patent; (ii) claims 1, 3, 7, and 9 of the '666 patent; (iii) claims 1, 3, and 5 of the '487 patent; (iv) claims 21, 30, 31 and 32 of the '325 patent; and (v) claim 1 of the '880 patent. On the same day, the Commission issued an opinion, with a dissenting opinion from Commissioner Johanson, and also issued cease and desist orders directed to CCUS and CCPK. The Commission terminated the investigation.

On May 2, 2014, the Respondents filed a motion to stay the cease and desist orders pending appeal. On May 14, 2014, Complainant Align and the IA filed responses in opposition. On June 2, 2014, the Commission issued a notice and order granting the motion.

ClearCorrect and Align each took appeals of the Commission's determination to the U.S. Court of Appeals for the Federal Circuit. In ClearCorrect's appeal, the Federal Circuit reversed the Commission's decision that the electronic transmission of the digital models could constitute an imported "article" within the meaning of 19 U.S.C. 1337, and remanded the case to the Commission. *ClearCorrect Operating, LLC* v. *ITC*, 810 F.3d 1283 (Fed. Cir. 2015), *reh'g en banc denied,* 819 F.3d 1334 (2016). No petition for *certiorari* was filed with the Supreme Court.

In Align's appeal, the Federal Circuit vacated and remanded the case to the Commission "for further proceedings in light of" the *ClearCorrect* decision. *Align Tech., Inc.* v. *ITC,* 622 F. App'x 910 (Fed. Cir. 2015).

In view of the foregoing final decisions of the Federal Circuit, the Commission has determined to rescind the cease and desist orders issued in this investigation. The investigation is terminated with a finding of no violation of section 337.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 23, 2016.

Katherine Hiner,

Acting Supervisory Attorney.

[FR Doc. 2016–23454 Filed 9–28–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 30 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Best Practices for Fingerprint Submissions
(2) Update on Child Care and Development Block Grant Act
(3) Proposed Changes to the NFF Qualification Requirements

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau of Investigation (FBI) Compact Officer, Mrs. Chasity S. Anderson at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

DATES AND TIMES: The Council will meet in open session from 9 a.m. until 5 p.m., on November 2–3, 2016.

ADDRESSES: The meeting will take place at the Holiday Inn St. Louis Downtown—Convention Center, 811 North Ninth Street, St. Louis, Missouri, telephone (314) 421–4000.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Chasity S. Anderson, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625–2803, facsimile (304) 625–2868.

Dated: September 22, 2016.

Chasity S. Anderson,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2016–23527 Filed 9–28–16; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Response, Compensation, and Liability Act

On September 21, 2016, a proposed consent decree was lodged with the United States District Court for the District of Utah in the lawsuit entitled *United States* v. *Atlantic Richfield Company, Inc.,* Civil Action No. 2:16–cv–00982–DBP.

The United States filed this lawsuit against Atlantic Richfield Company ("Atlantic Richfield") pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607. The United States' complaint seeks injunctive relief and the recovery of past and future response costs incurred and to be incurred at the International Smelting and Refining Site (the "Site") in Tooele County, Utah. The proposed consent decree requires Atlantic Richfield to pay $560,000 in past response costs, pay future oversight costs, and undertake certain operation and maintenance activities at the Site.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Atlantic Richfield Company, Inc.,* D.J. Ref. No. 90–11–3–07569/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail in the following manner:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/Consent_Decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $9.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–23554 Filed 9–28–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 22, 2016, the Department of Justice lodged a proposed consent decree with the United States

District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States* v. *Tank Car Corporation of America,* Civil Action No. 2:16–cv–05031–TON.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). The United States' complaint seeks recovery of costs incurred and to be incurred by the Environmental Protection Agency in connection with the removal of hazardous substances at the Tank Car Corporation of America Site, a former railroad and tank car rehabilitation facility in Oreland, Montgomery County, Pennsylvania. The consent decree requires Tank Car Corporation of America to assign its rights to proceeds under its insurance policies to the United States. In return, the United States agrees not to sue Tank Car Corporation of America under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Tank Car Corporation of America,* D.J. Ref. No. 90–11–3–11173. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–23492 Filed 9–28–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2017.

DATES: The annual list of labor surplus areas is effective October 1, 2016, for all states, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue NW., Room C–4514, Washington, DC 20210. Telephone: (202) 693–2870 (This is not a toll-free number) or email *wright.samuel.e@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subpart A. These regulations require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations, and to publish annually a list of labor surplus areas. Pursuant to those regulations, ETA is hereby publishing the annual list of labor surplus areas. In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

Eligible Labor Surplus Areas

A Labor Surplus Area (LSA) is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. ETA uses only official unemployment estimates provided by the Bureau of Labor Statistics in making these classifications. The average unemployment rate for all states includes data for the Commonwealth of Puerto Rico. LSA classification criteria stipulate a civil jurisdiction must have a "floor unemployment rate" of 6.0% or higher to be classified a LSA. Any civil jurisdiction that has a "ceiling unemployment rate" of 10% or higher is classified a LSA.

Civil jurisdictions are defined as follows:

1. A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or
2. A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities; or
3. All counties, except for the following:
   (a) Those counties which contain any type of civil jurisdictions defined in "1" or "2" above,
   (b) a county in the States of Connecticut, Massachusetts, and Rhode Island; or
4. A "balance of county" consisting of a county less any component cities and townships identified in "1" or "2" above; or
5. A county equivalent which is a town in the States of Connecticut, Massachusetts, and Rhode Island, or a municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

The Department of Labor (DOL) issues the LSA list on a fiscal year basis. The list becomes effective each October 1, and remains in effect through the following September 30. The reference period used in preparing the current list was January 2014 through December 2015. The national average unemployment rate (including Puerto Rico) during this period was rounded to 5.77 percent. Twenty percent higher than the national unemployment rate during this period is 6.93 percent. Therefore, areas included on the FY 2017 LSA list had a rounded unemployment rate for the reference period of 6.93 percent or higher. To ensure that all areas classified as labor surplus meet the requirements, when a city is part of a county and meets the unemployment qualifier as a LSA, that city is identified in the LSA list, the balance of county, not the entire county, will be identified as a LSA if the balance of county also meets the LSA unemployment criteria. The FY 2017 LSA list, statistical data on the current and some previous year's LSAs, and the list of LSAs in Puerto Rico are available at ETA's LSA Web site *http://www.doleta.gov/programs/lsa.cfm.*

Petition for Exceptional Circumstance Consideration

The classification procedures also provide criteria for the designation of LSAs under exceptional circumstances criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not reflected in the data for the 2-year reference period. Under the program's exceptional circumstance procedures, LSA classifications can be made for civil jurisdictions, Metropolitan Statistical Areas or Combined Statistical Areas, as defined by the U.S. Office of Management and Budget. In order for an area to be classified as a LSA under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to the Department of Labor's ETA. The current criteria for an exceptional circumstance classification are,

(1) An area's unemployment rate is at least 6.93 percent for each of the three most recent months;

(2) a projected unemployment rate of at least 6.93 percent for each of the next 12 months; and

(3) documentation that the exceptional circumstance event has occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, Metropolitan Statistical Areas, or Micropolitan Statistical Areas.

The addresses of state workforce agencies are available on the ETA Web site at: *http://www.doleta.gov/programs/lsa.cfm.* State Workforce Agencies may submit petitions in electronic format to *wright.samuel.e@dol.gov,* or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW., Room C–4514, Washington, DC 20210, Attention Samuel Wright. Data collection for the petition is approved under OMB 1205–0207, expiration date March 31, 2018.

Portia Wu,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 2016–23462 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for SGS North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of SGS North America, Inc. (SGS), as an NRTL. SGS's expansion covers the addition of three (3) recognized testing and certification sites and thirty-nine (39) recognized testing standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS submitted four applications, two dated September 24, 2014 (OSHA–2006–0040–0025), and two dated October 1, 2014 (OSHA–2006–0040–0026 and OSHA–2006–0040–0028), to expand its recognition to include the addition of three recognized testing and certification sites located at: SGS Tecnos S.A., C/. Trespaderne 29, Edificio Barajas 1, 28042 Madrid—Spain; SGS Fimko, Ltd., Sarkiniementie 3, FI–00210 Helsinki, Finland; and SGS Baseefa Limited, Rockhead Business Park, Staden Lane, Buxton SK17 9RZ, United Kingdom. Amendments to the October 1, 2014, applications were received on January 14, 2015 (OSHA–2006–0040–0027), and June 16, 2016 (OSHA–2006–0040–0029). These applications additionally requested the addition of forty-nine (49) additional test standards to SGS's scope of recognition, in addition to the three testing and certification sites. OSHA staff performed a detailed analysis of the application and other pertinent information. OSHA staff also performed on-site reviews of SGS's testing and certification facilities on August 5, 2015, at SGS Madrid; on August 13, 2015, at SGS Baseefa; and on August 17, 2015, at SGS Fimko and recommended expansion of SGS's recognition to include these three (3) testing sites and 39 of the 49 requested test standards.

OSHA published the preliminary notice announcing SGS's expansion applications in the **Federal Register** on July 21, 2016 (81 FR 47438). The Agency requested comments by August 5, 2016, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of SGS's scope of recognition to include these three recognized testing sites and thirty-nine (39) of the forty-nine (49) requested testing standards.

To obtain or review copies of all public documents pertaining to the SGS's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0040 contains all materials in the record concerning SGS's recognition.

II. Final Decision and Order

OSHA staff examined SGS's expansion applications, conducted detailed on-site assessments, and examined other pertinent information. Based on its review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below.

OSHA, therefore, is proceeding with this final notice to grant this expansion to SGS's scope of recognition to include three additional test sites. OSHA limits the expansion of SGS's recognition to include the sites at SGS Madrid, Madrid, Spain; SGS Fimko, Helsinki, Finland; and SGS Baseefa, Buxton, United Kingdom as listed above. OSHA's recognition of these sites limits SGS to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in SGS's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

Additionally, OSHA is proceeding with this final notice to grant SGS's scope to recognition to include thirty-nine additional test standards to its scope of recognition. OSHA limits the expansion of SGS's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1741	Inverters, Converters, and Controllers for Use in Independent Power Systems.
UL 6142	Small Wind Turbine Systems.
UL 763	Motor-Operated Commercial Food Preparing Machines.
UL 775	Graphic Arts Equipment.
UL 1004–1	Rotating Electrical Machines—General Requirements.
UL 2089	Vehicle Battery Adapters.
ISA 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
ISA 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
ISA 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".
ISA 60079–5	Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–6	Explosive Atmospheres—Part 6: Equipment Protection by Liquid Immersion "o".
ISA 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
ISA 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
ISA 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
ISA 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
ISA 60079–28	Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation, Edition 1.1.
ISA 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".
UL 1203	Explosion Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 1574	Track Lighting Systems.
UL 2108	Low Voltage Lighting Systems.
UL 8750	Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 60745–1	Hand-Held Motor-Operated Electric Tools—Safety—Part 1: General Requirements.
UL 60745–2–1	Hand-Held Motor Operated Electrical Tools—Safety—Part 2–1: Particular Requirements for Drills and Impact Drills.
UL 60745–2–2	Particular Requirements for Screwdrivers and Impact Wrenches.
UL 60745–2–3	Particular Requirements for Grinders, Polishers and Disk-Type Sanders.
UL 60745–2–4	Particular Requirements for Sanders and Polishers Other Than Disk Type.
UL 60745–2–5	Particular Requirements for Circular Saws.
UL 60745–2–6	Particular Requirements for Hammers.
UL 60745–2–8	Particular Requirements for Shears and Nibblers.
UL 60745–2–9	Particular Requirements for Tappers.
UL 60745–2–11	Particular Requirements for Reciprocating Saws.
UL 60745–2–12	Particular Requirements for Concrete Vibrators.
UL 60745–2–13	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–13: Particular Requirements for Chain Saws.
UL 60745–2–14	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–14: Particular Requirements for Planers.
UL 60745–2–15	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–15: Particular Requirements for Hedge Trimmers.
UL 60745–2–16	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers.
UL 60745–2–17	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–17: Particular Requirements for Routers and Trimmers.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS also must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. SGS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. SGS must continue to meet the requirements for recognition, including all previously published conditions on SGS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of SGS, subject to the limitations and conditions specified above.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23547 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0037]

Welding, Cutting, and Brazing; Extension of the Office of Management of Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Welding, Cutting, and Brazing Standard (29 CFR part 1910, subpart Q).

DATES: Comments must be submitted (postmarked, sent, or received) by November 28, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0037, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0037) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collected is used by employers and workers whenever welding, cutting and brazing are performed. The purpose of the information is to ensure that employers evaluate hazards associated with welding and ensure that adequate measures are taken to make the process safe.

Section 1910.255(e) requires that a periodic inspection of resistance welding equipment be made by qualified maintenance personnel, and that a certification record be generated and maintained. The certification shall include the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The record shall be made available to an OSHA inspector upon request. The maintenance inspection ensures that welding equipment is in safe operating condition while the maintenance record provides evidence to workers and Agency compliance officers that employers performed the required inspections.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency requests an adjustment increase of 97 burden hours (from 5,635 burden hours to 5,732 burden hours) associated with the collection of information in the Welding, Cutting, and Brazing Standard. OSHA will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of the information collection requirements contained in the Standard.

Type of Review: Extension of a currently approved collection.

Title: Welding, Cutting, and Brazing (29 CFR part, subpart Q).

OMB Control Number: 1218–0207.

Affected Public: Business or other for-profits.

Number of Respondents: 20,471.

Frequency of Responses: On occasion.

Total Responses: 81,884.

Average Time per Response: OSHA estimates it will take 1 minute (.02 hour) to maintain the inspection certification record to 5 minutes (.08 hour) for each welder to perform the inspection periodically (semi-annually).

Estimated Total Burden Hours: 5,732.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0037). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23570 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0042]

OSHA's Conflict of Interest and Disclosure Form; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the proposed Conflict of Interest (COI) and Disclosure Form, which will be used to determine whether or not a conflict of interest exists for a potential peer review panel member.

DATES: Comments must be submitted (postmarked, sent, or received) by November 28, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2009–0042, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of

Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2009–0042) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

OSHA conducts peer reviews to review a draft product for quality by specialists in the field who were not involved in producing the draft. The selection of participants in a peer review is based on expertise, with due consideration of independence. The Office of Management and Budget published the Final Information Quality Bulletin for Peer Review on December 15, 2004. The Bulletin states ". . . the agency must address reviewers' potential conflicts of interest (including those stemming from ties to regulated businesses and other stakeholders) and independence from the agency." The Bulletin requires agencies to adopt or adapt the committee selection policies employed by the National Academy of Sciences (NAS) when selecting peer reviewers who are not Government employees. To fulfill this requirement, OSHA has developed a Conflict of Interest (COI) and Disclosure Form, based on NAS' Conflict of Interest Disclosure form. This form will be used to determine whether or not a conflict exists for a potential peer review panel member.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

There are no changes in burden hours from the previous Information Collection Request for obtaining the necessary background information and disclosure of conflict of interest information to ensure that invited experts are not compromised. There are no costs as discussed under Item 13 of the Supporting Statement.

Type of Review: Extension of a currently approved collection.

Title: OSHA's Conflict of Interest (COI) and Disclosure Form.

OMB Control Number: 1218–0255.

Affected Public: Individuals and Households.

Number of Respondents: 36.

Frequency of Responses: On occasion.

Total Responses: 36.

Average Time per Response: OSHA estimates it will take one-half hour to complete the COI Short form, and one (1) hour to complete the COI Long form.

Estimated Total Burden Hours: 27.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0042). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://*

www.regulations.gov Web site to submitcomments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor, for Occupational Safety and Health.

[FR Doc. 2016–23552 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0045]

Aerial Lifts Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirement contained in the Aerial Lifts Standard. The only information collection requirement in the Aerial Lifts Standard is a certification provision, paragraph (a)(2). This provision requires an employer who modifies an aerial lift for a use not intended by the lift manufacturer ("field modified aerial lift") to obtain from that manufacturer, or an equivalent entity (such as a nationally-recognized laboratory), a written certificate stating that: The modification conforms to the applicable provisions of ANSI A92.2–1969 and OSHA's Aerial Lifts Standard; and the modified aerial lift is at least as safe as it was before modification.

Employers who modify an aerial lift for uses other than those provided by the manufacturer must obtain a certificate from the manufacturer or equivalent entity certifying that the modification is in conformance with applicable American National Standards Institute (ANSI) standards and OSHA's Aerial Lifts Standard, and that the equipment is as safe as it was prior to the modification.

DATES: Comments must be submitted (postmarked, sent, or received) by November 28, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2009–0045, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0045) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Directorate of Construction, OSHA, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2020.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The certification requirement specified in the Aerial Lifts Standard demonstrates that the manufacturer or an equally-qualified entity has assessed a modified aerial lift and found that it was safe for use by, or near, workers; and that it would provide workers with a level of protection at least equivalent to the protection afforded by the lift prior to modification.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for

example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

There is an adjustment decrease of 13 hours as a result of removing the burden hours for an employer to disclose records to an OSHA compliance officer during an inspection, bringing the total burden hours to zero (0). However, while no responses have in fact been received, DOL is using the figure of "10" responses in order to have the ICR comport to regulation 5 CFR 1320.3(c)(4)(i), which deems any rule of general applicability to involve at least 10 respondents. The Agency is, therefore, using the above per response burden to maintain a time burden as close as is possible to the actual time of no hours (1 hour).

Type of Review: Extension of a currently approved collection.

Title: Aerial Lifts (29 CFR 1926.453).

OMB Control Number: 1218–0216.

Affected Public: Business or other for-profits.

Number of Respondents: 10.

Frequency of Responses: On occasion.

Total Responses: 10.

Average Time per Response: 6 minutes (0.10 hour).

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0045). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23581 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0016]

Nemko North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for Nemko North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of Nemko North America, Inc. (NNA), as an NRTL. NNA's expansion covers the addition of one test standard to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://*

www.osha.gov/dts/otpca/nrtl/index.html.

NNA submitted an application, dated June 25, 2015 (OSHA–2013–0016–0012), to expand its recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing NNA's expansion application in the **Federal Register** on August 1, 2016 (81 FR 50531). The Agency requested comments by August 16, 2016, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of NNA's scope of recognition.

To obtain or review copies of all public documents pertaining to the NNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2013–0016 contains all materials in the record concerning NNA's recognition.

II. Final Decision and Order

OSHA staff examined NNA's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that NNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant NNA's scope of recognition. OSHA limits the expansion of NNA's recognition to testing and certification of products for demonstration of conformance to the test standard listed in Table 1 below.

TABLE 1—APPROPRIATE TEST STANDARD FOR INCLUSION IN NNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62368–1 ...	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, NNA must abide by the following conditions of the recognition:

1. NNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. NNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. NNA must continue to meet the requirements for recognition, including all previously published conditions on NNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of NNA, subject to the limitation and conditions specified above.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23548 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0009]

Advisory Committee on Construction Safety and Health (ACCSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of ACCSH meeting and request for nominations for membership on ACCSH.

SUMMARY: ACCSH will meet November 30–December 1, 2016, in Washington, DC. OSHA also announces the Assistant Secretary of Labor's request for nominations for membership on ACCSH.

DATES:

ACCSH meeting: ACCSH will meet from 1:00 to 5:00 p.m., e.t., Wednesday, November 30, 2016, and from 9:00 a.m. to 5:00 p.m., Thursday, December 1, 2016.

Submit (postmark, send, transmit) comments, requests to address the ACCSH meeting, speaker presentations (written or electronic), and requests for special accommodations for the ACCSH meeting, by November 11, 2016.

Nominations for ACCSH membership: Submit nominations for ACCSH membership by January 27, 2017.

ADDRESSES:

Submission of comments, requests to speak, and speaker presentations for the ACCSH meeting: Submit comments, requests to speak, and speaker presentations for the ACCSH meeting, using one of the following methods:

Electronically: Submit materials, including attachments, electronically at: *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions.

Facsimile (Fax): If the submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand delivery, or messenger (courier) service: Submit materials to the OSHA Docket Office, Docket No. OSHA–2016–0009, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2350 (TTY (877) 889–5627). OSHA's Docket Office accepts deliveries (hand deliveries, express mail, and messenger service) during normal business hours, 8:15 a.m.–4:45 p.m., e.t., weekdays.

Instructions: Submissions must include the agency name and docket number for this **Federal Register** notice

(Docket No. OSHA–2016–0009). Due to security-related procedures, submissions by regular mail may experience significant delays. Please contact the OSHA Docket Office for information about security procedures for making submissions. For additional information on submitting comments, requests to speak, and speaker presentations, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OSHA will post comments, requests to speak, and speaker presentations, including any personal information provided, without change, at: *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as Social Security numbers and birthdates.

Location of the ACCSH meeting: ACCSH will meet in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Requests for special accommodations: Please submit requests for special accommodations to attend the ACCSH meeting to Ms. Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *jameson.grettah@dol.gov.*

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general information about ACCSH, the ACCSH meeting, and ACCSH membership: Mr. Damon Bonneau, OSHA, Directorate of Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2020; email: *bonneau.damon@dol.gov.*

Copies of this ***Federal Register*** *notice:* Electronic copies of this **Federal Register** notice are available at: *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, also are available on the OSHA Web page at: *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. ACCSH Meeting

Background: ACCSH will meet November 30–December 1, 2016, in Washington, DC. The meeting is open to the public. OSHA transcribes ACCSH meetings and prepares detailed minutes of meetings. OSHA places the transcript and minutes in the public docket for the meeting. The docket also includes speaker presentations, comments, and other materials submitted to ACCSH.

ACCSH advises the Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) in the formulation of standards affecting the construction industry, and on policy matters arising in the administration of the safety and health provisions under the Contract Work Hours and Safety Standards Act (Construction Safety Act (CSA)) (40 U.S.C. 3701 *et seq.*) and the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) (*see* also 29 CFR 1911.10 and 1912.3). In addition, the OSH Act and CSA require that the Assistant Secretary consult with ACCSH before the Agency proposes any occupational safety and health standard affecting construction activities (29 CFR 1911.10; 40 U.S.C. 3704).

Meeting agenda: The tentative agenda for this meeting includes:

- Assistant Secretary's Agency update and remarks;
- Directorate of Construction update;
- ACCSH's consideration of, and recommendation on, the following proposals:
  - —Clarification of requirements in the crane standard regarding the design of buckets used for personnel hoisting; the use of anti-two blocking devices on cranes with telescoping booms; and staying clear of loads suspended from floating cranes and land cranes on barges;
  - —Clarification of requirements in the crane standard regarding modification and design of railroad cranes;
- NIOSH update;
- Directorate of Technical Support and Emergency Management update;
- Discussion on ACCSH Workgroups;
- National Safety Stand-Down update; and,
- Public Comment Period.

Attending the meeting: Individuals attending the meetings at the U.S. Department of Labor must enter the building at the visitors' entrance, 3rd and C Streets NW., and pass through building security. Attendees must have valid government-issued photo identification (such as a driver's license) to enter the building. For additional information about building-security measures for attending ACCSH meetings, please contact Ms. Jameson (see "*Requests for special accommodations*" in the **ADDRESSES** section of this notice).

Requests to speak and speaker presentations: Attendees who want to address ACCSH at the meeting must submit a request to speak, as well as any written or electronic presentation, by November 11, 2016, using one of the methods listed in the **ADDRESSES** section. The request must state:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of your presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats.

Alternately, at the ACCSH meeting, you may request to address ACCSH briefly by signing the public-comment request sheet and listing the topic(s) you will address. You also must provide 20 hard copies of any materials, written or electronic, you want to present to ACCSH.

The ACCSH Chair may grant requests to address ACCSH as time and circumstances permit.

Public docket of the ACCSH meeting: OSHA will place comments, requests to speak, and speaker presentations, including any personal information you provide, in the public docket of this ACCSH meeting without change, and those documents will be available online at: *http://www.regulations.gov.* OSHA also places in the public docket the meeting transcript, meeting minutes, documents presented at the ACCSH meeting, and other documents pertaining to the ACCSH and ACCSH Workgroup meetings. These documents are available online at: *http://www.regulations.gov.*

Access to the public record of the ACCSH meeting: To read or download documents in the public docket of this ACCSH meeting, go to Docket No. OSHA–2016–0009 at: *http://www.regulations.gov.* The *http://www.regulations.gov* index also lists all documents in the public record for this meeting; however, some documents (*e.g.,* copyrighted materials) are not publicly available through that Web page. All documents in the public record, including materials not available through *http://www.regulations.gov,* are available for inspection in the OSHA Docket Office (see **ADDRESSES** section). Contact the OSHA Docket Office for assistance in making submissions to, or obtaining materials from, the public docket.

II. Request for Nominations for Membership on ACCSH

The Assistant Secretary of Labor for Occupational Safety and Health (Assistant Secretary) invites interested persons to submit nominations for membership on ACCSH.

Background: ACCSH is a continuing advisory committee established under Section 107(e) of the CSA to advise the Secretary of Labor (Secretary) in the formulation of construction safety and health standards, as well as on policy matters arising under the CSA and the OSH Act. In particular, 29 CFR 1911.10(a) and 1912.3(a) provide that the Assistant Secretary shall consult with ACCSH whenever the Agency proposes any safety or health standard that affects the construction industry.

ACCSH operates in accordance with the CSA, the OSH Act, the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), and regulations issued pursuant to those statutes (29 CFR part 1912, 41 CFR part 102–3). ACCSH generally meets two to four times a year.

ACCSH membership: ACCSH consists of 15 members whom the Secretary appoints. ACCSH members generally serve staggered two-year terms, unless they resign, cease to be qualified, or become unable to serve, or the Secretary removes them (29 CFR 1912.3(e)). The Secretary may appoint ACCSH members to successive terms. No member of ACCSH, other than members who represent employers or employees, shall have an economic interest in any proposed rule that affects the construction industry (29 CFR 1912.6).

The categories of ACCSH membership, and the number of new members to be appointed to replace members whose terms will expire, are:

- Five members who are qualified by experience and affiliation to present the viewpoint of employers in the construction industry—three employer representatives will be appointed;
- Five members who are similarly qualified to present the viewpoint of employees in the construction industry—three employee representatives will be appointed;
- Two representatives of State safety and health agencies—one representative from a State safety and health agency will be appointed;
- Two public members, qualified by knowledge and experience to make a useful contribution to the work of ACCSH, such as those who have professional or technical experience and competence with occupational safety and health in the construction industry—one public representative will be appointed; and
- One representative designated by the Secretary of the Department of Health and Human Services and appointed by the Secretary—no new appointment will be made.

The Department of Labor is committed to equal opportunity in the workplace and seeks broad-based and diverse ACCSH membership. Any interested person or organization may nominate one or more individuals for membership on ACCSH. Interested persons also are invited and encouraged to submit statements in support of nominees.

Submission requirements: Nominations must include the following information:

- Nominee's contact information and current employment or position;
- Nominee's résumé or curriculum vitae, including prior membership on ACCSH and other relevant organizations and associations;
- Category of membership (employer, employee, public, State safety and health agency) that the nominee is qualified to represent;
- A summary of the background, experience, and qualifications that addresses the nominee's suitability for each of the nominated membership categories;
- Articles or other documents the nominee has authored that indicate the nominee's knowledge, experience, and expertise in occupational safety and health, particularly as it pertains to the construction industry; and
- A statement that the nominee is aware of the nomination, is willing to regularly attend and participate in ACCSH meetings, and has no conflicts of interest that would preclude membership on ACCSH.

Member selection: The Secretary will select ACCSH members on the basis of their experience, knowledge, and competence in the field of occupational safety and health, particularly as it pertains to the construction industry. Information received through this nomination process, in addition to other relevant sources of information, will assist the Secretary in appointing members to ACCSH. In selecting ACCSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals.

Instructions for submitting nominations: All nominations, supporting documents, attachments, and other materials must identify the Agency name and the docket number for this **Federal Register** notice (Docket No. OSHA–2016–0009). Submit materials electronically, by FAX, or by hard copy. You may supplement electronic submissions by attaching electronic files. If you supplement electronic submissions with hard-copy documents, submit the hard copy documents to the OSHA Docket Office and clearly identify the electronic submission by Agency name and docket number (Docket No. OSHA–2016–0009) so the Docket Office can attach the hard-copy documents to the appropriate electronic submission.

The OSHA Docket Office will post all submissions, including personal information provided, in the docket without change. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. Guidance on submitting nominations and supporting materials is available on-line at: *http://www.regulations.gov* and from the OSHA Docket Office.

Access to docket: The *http://www.regulations.gov* index lists all submissions provided in response to this **Federal Register** notice; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download from that Web page. All submissions, including materials not available on-line, are available for inspection at the OSHA Docket Office. For information about accessing materials in Docket No. OSHA–2016–0009, including materials not available on-line, contact the OSHA Docket Office.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by 29 U.S.C. 656; 40 U.S.C. 3704; 5 U.S.C. App. 2; 29 CFR parts 1911 and 1912; 41 CFR 102–3; and Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23550 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0022]

Student Data Form; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements

contained in the Student Data Form (OSHA Form 182).

DATES: Comments must be submitted (postmarked, sent, or received) by November 28, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket Number OSHA–2010–0022, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0022) for this Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimal burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657). The OSH Act authorizes the Occupational Safety and Health Administration ("OSHA" or the "Agency") to conduct education and training courses (29 U.S.C. 670). These courses must educate an adequate number of qualified personnel to fulfill the purposes of the OSH Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and workers to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21 of the OSH Act, the OSHA Training Institute (the "Institute") provides basic, intermediate, and advanced training and education in occupational safety and health for state compliance officers, Agency professionals and technical-support personnel, employers, workers, organizations representing workers and employers, educators who develop curricula and teach occupational safety and health courses, and representatives of professional safety and health groups. The Institute provides courses on occupational safety and health at its national training facility in Arlington Heights, Illinois.

Students attending Institute courses complete the one-page Student Data Form (OSHA Form 182) on the first day of class. The form provides information under five major categories titled "Course Information," "Personal Data," "Employer Data," "Emergency Contacts," and "Student Groups." The OSHA Directorate of Training and Education (the "Directorate") compiles, for each fiscal year, the following information from the "Course Information" and "Student Groups" categories: Total student attendance at the Institute; the number of students attending each training course offered by the Institute; and the types of students attending these courses (for example, students from federal or state occupational safety and health agencies). The Directorate uses this information to demonstrate, in an accurate and timely manner, that the Agency is providing the training and worker education mandated by Section 21 of the OSH Act. OSHA also uses this information to evaluate training output, and to make decisions regarding program/course revisions, budget support, and tuition costs.

The Agency uses the information collected under the "Course Information," "Personal Data," and "Employer Data" to identify private sector students so that it can collect tuition costs from them or their employers as authorized by 31 U.S.C. 9701 ("Fees and Charges for Government Services and Things of Value"); Office of Management and Budget Circular A–25 ("User Charges"); and 29 CFR part 1949 ("Directorate of Training and Education, Occupational Safety and Health Administration"). The information in the "Personal Data" and "Emergency Contacts" categories permits OSHA to contact students who are residing in local hotels/motels if an emergency arises at their home or place of employment, and to alert supervisors/alternate contacts of a trainee's injury or illness.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other

technological information collection and transmission techniques.

III. Proposed Actions

The Agency is requesting an adjustment increase of 160 burden hours (from 240 hours to 400 hours) as a result of the increasing number of students attending the Institute from 3,000 to 5,000 students. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request for approval to OMB.

Type of Review: Extension of a currently approved collection.

Title: Student Data Form (OSHA Form 182).

OMB Control Number: 1218–0172.

Affected Public: Individuals; business or other for-profit organizations; Federal government; State, Local, or Tribal governments.

Number of Respondents: 5,000.

Frequency of Responses: On occasion.

Total Responses: 5,000.

Average Time per Response: 5 minutes (.08 hour).

Estimated Total Burden Hours: 400 hours.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (OSHA–2010–0022) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, are available at OSHA's Web page at *http://www.osha.gov.*

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23580 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0023]

Tennessee State Plan; Change in Level of Federal Enforcement: Marine Construction

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Notice.

SUMMARY: This document gives notice of OSHA's approval of a change to the state of Tennessee's occupational safety and health State Plan to include marine construction in its State Plan. Marine construction was previously exempted from the State Plan by the Tennessee Occupational Safety and Health Act of 1972. Therefore, OSHA amends the Tennessee State Plan's coverage to reflect this change in the level of federal enforcement.

DATES: *Effective Date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: For press inquiries, contact Francis Meilinger, Director, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general and technical information, contact Douglas J. Kalinowski, Director, Directorate of Cooperative and State Programs, Room N–3700, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2200; email: *kalinowski.doug@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 667 (OSH Act), provides that states that wish to assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting and obtaining federal approval of a State Plan. State Plan approval occurs in stages that include initial approval under Section 18(c) of the Act and, ultimately, final approval under Section 18(e).

The Tennessee State Plan was initially approved under Section 18(c) of the OSH Act and 29 CFR part 1902 on July 5, 1973. The Tennessee State Plan is administered by the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health (TOSHA). On July 22, 1985, OSHA announced the final approval of the Tennessee State Plan pursuant to Section 18(e) and amended Subpart P of 29 CFR part 1952 to reflect the Assistant Secretary's decision (50 FR 29659–01). As a result, OSHA relinquished its concurrent standards and enforcement authority with regard to occupational safety and health issues covered by the Tennessee State Plan.

OSHA retained its authority over safety and health in private sector maritime employment; federal government employers and workers; the U.S. Postal Service (USPS), including USPS employees and contract employees at contractor-operated facilities engaged in USPS mail operations; railroad employment; employment at Tennessee Valley Authority facilities; and on military bases.

Under the Tennessee Occupational Safety and Health Act of 1972, workers protected by the Longshore and Harbor

Workers' Compensation Act (33 U.S.C. 901 *et seq.*) were exempt from coverage by the Tennessee State Plan (T.C.A. § 50–3–104(6) (2014)). That included workers who were engaged in marine construction. However, Tennessee subsequently removed this prohibition from the statute (2015 Tenn. Pub. Acts, c. 23, § 1). Now, TOSHA is requesting that its coverage be modified to include coverage over marine construction. TOSHA has in place standards for construction (TN ADC 0800–01–06–.02 adopts OSHA's construction standards in 29 CFR 1926 with minor exceptions not relevant here), including for marine operations and equipment (29 CFR 1926.605). OSHA is transferring coverage over marine construction to the Tennessee State Plan. Accordingly, notice is hereby given of the change in State Plan authority over marine construction, and coverage is transferred to the Tennessee State Plan.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR parts 1902 and 1953.

Signed at Washington, DC, on September 26, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–23582 Filed 9–28–16; 8:45 am]

BILLING CODE 4510–29–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 16–06]

Millennium Challenge Corporation Advisory Council Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C.—App., the Millennium Challenge Corporation (MCC) Advisory Council was established as a discretionary advisory committee on June 14, 2016 to serve MCC in a solely advisory capacity and provide insight regarding innovations in infrastructure, technology and sustainability; perceived risks and opportunities in MCC partner countries; new financing mechanisms for developing country contexts; and shared value approaches. The Advisory Council provides a platform for systematic engagement with the private sector and other external stakeholders and contributes to MCC's mission—to reduce poverty through sustainable, economic growth.

Time and Place: Thursday, October 13, 2016 from 8:30 a.m.–1:45 p.m. which includes a working lunch. The meeting will be held at the Millennium Challenge Corporation, 1099 14th St. NW., Suite 700, Washington, DC 20005.

Agenda: During the inaugural meeting of the MCC Advisory Council, members will be provided with an overview of MCC's work, discuss trends in international development and how MCC can continue to innovate and MCC will seek advice from the Council members on MCC's Compact program in Benin.

Public Participation: The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Wednesday, October 5 to *MCCAdvisoryCouncil@mcc.gov* to be placed on an attendee list.

FOR FURTHER INFORMATION CONTACT: For further information, contact Beth Roberts at *MCCAdvisoryCouncil@mcc.gov* or 202–521–3600 or visit *https://www.mcc.gov/about/org-unit/advisory-council.*

Sarah E. Fandell,

VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

[FR Doc. 2016–23569 Filed 9–28–16; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Membership of the National Endowment for the Arts Senior Executive Service Performance Review Board

ACTION: Notice.

SUMMARY: This notice announces the membership of the National Endowment for the Arts (NEA) Senior Executive Service (SES) Performance Review Board (PRB).

DATES: *Effective Date:* September 26, 2016.

ADDRESSES: Send comments concerning this notice to: National Endowment for the Arts, 400 7th Street SW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Craig McCord Sr. by telephone at (202) 682–5473 or by email at *mccordc@arts.gov.*

SUPPLEMENTARY INFORMATION: 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the appointing authority relative to the performance of the senior executive.

The following persons have been selected to serve on the Performance Review Board of the National Endowment for the Arts (NEA):

Winona Varnon—Deputy Chairman for Management and Budget
Michael Griffin—Chief of Staff
Sunil Iyengar—Director, Research & Analysis

Dated: September 26, 2016.

Kathy N. Daum,

Director, Administrative Services.

[FR Doc. 2016–23565 Filed 9–28–16; 8:45 am]

BILLING CODE P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, October 4, 2016

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

8730A *Highway Accident Report—Multivehicle Work Zone Crash on Interstate 75, Chattanooga, Tennessee, June 25, 2015* (HWY15MH009)

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, September 28, 2016.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Keith Holloway at (202) 314–6100 or by email at *Keith.Holloway@ntsb.gov.*

Dated: Thursday, August 25, 2016.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2016–23683 Filed 9–27–16; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–039; NRC–2008–0603]

Talen Energy Combined License Application for Bell Bend Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for combined license; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting the Talen Energy request to withdraw its application for a combined license (COL) for the Bell Bend Nuclear Power Plant (BBNPP). This new reactor would be identified as the BBNPP located adjacent to the existing Susquehanna Steam Electric Station in Luzerne County, Pennsylvania.

DATES: The effective date of the withdrawal is September 22, 2016.

ADDRESSES: Please refer to Docket ID NRC–2008–0603 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0603. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents,*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Tomeka Terry, *Office of New Reactors,* U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1488, email: *Tomeka.Terry@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated October 10, 2008 (ADAMS Accession No. ML082880580), as supplemented by letters, dated November 18, 2008 and November 24, 2008 (ADAMS Accession Nos. ML083250485 and ML083330405) and December 1, 2008 and December 8, 2008 (ADAMS Accession No. ML083400289 and ML083510577), Talen Energy (formerly PPL Bell Bend, LLC), submitted an application to the NRC for a COL for a single unit of the U.S. Evolutionary Power Reactor in accordance with the requirements contained in part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), "Licenses, Certifications, and Approvals for Nuclear Power Plants." This new reactor was identified as BBNPP located adjacent to the existing Susquehanna Steam Electric Station in Luzerne County, Pennsylvania.

A notice acknowledging receipt and availability of the Talen Energy's COL application was published in the **Federal Register** on November 13, 2008 (73 FR 67214). Subsequently, a notice announcing the acceptance for docketing of the BBNPP COL application in accordance with 10 CFR part 2, "Agency Rules of Practice and Procedure," and 10 CFR part 52 was published in the **Federal Register** on December 29, 2008 (73 FR 79519). The docket number established for this application was 52–039.

By letter dated January 9, 2014 (ADAMS Accession No. ML14030A074), Talen Energy requested that the NRC suspend the safety review portion of the COL application until further notice, and continue to focus its support on the necessary work leading to the issuance of the final environmental impact statement (FEIS). The NRC staff issued the FEIS, NUREG–2179, "Environmental Impact Statement for a Combined License (COL) for Bell Bend Nuclear Power Plant, Final Report," on April 21, 2016 (ADAMS Accession No. ML16075A311). The NRC granted the requested suspension by letter dated August 12, 2014 (ADAMS Accession No. ML14210A588).

By its recent letter dated August 30, 2016 (ADAMS Accession No. ML16252A202), Talen Energy requested withdrawal of its BBNPP COL application, including the Safeguards/Security part of the application. Pursuant to the requirements in 10 CFR part 2, the Commission has granted Talen Energy its request to withdraw the BBNPP COL application.

Dated at Rockville, Maryland, this 22nd day of September 2016.

For the Nuclear Regulatory Commission.

Francis M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2016–23556 Filed 9–28–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 23, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 240 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–201, CP2016–290.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–23513 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 23, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 241 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–202, CP2016–291.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–23512 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 23, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 242 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–203, CP2016–292.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–23511 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 23, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 35 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–205, CP2016–294.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–23509 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on September 23, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 243 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–204, CP2016–293.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–23510 Filed 9–28–16; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and purpose of information collection: Application for Employee Annuity Under the Railroad Retirement Act; OMB 3220–0002.

Section 2a of the Railroad Retirement Act (RRA) provides for payments of age and service, disability, and supplemental annuities to qualified employees. An annuity cannot be paid until the employee stops working for a railroad employer. In addition, the age and service employee must relinquish any rights held to such jobs. A disabled employee does not need to relinquish employee rights until attaining Full Retirement Age, or if earlier, when their spouse is awarded a spouse annuity. Benefits become payable after the employee meets certain other requirements, which depend on the type of annuity payable. The requirements for obtaining the annuities are prescribed in 20 CFR 216 and 220.

To collect the information needed to help determine an applicant's entitlement to, and the amount of, an employee retirement annuity the RRB uses Forms AA–1, Application for Employee Annuity; AA–1d, Application for Determination of Employee Disability; G–204, Verification of Workers Compensation/Public Disability Benefit Information, and electronic Forms AA–1cert, Application Summary and Certification, and AA–1sum, Application Summary.

The AA–1 application process obtains information from an applicant about their marital history, work history, military service, benefits from other governmental agencies, railroad pensions and Medicare entitlement for either an age and service or disability annuity. An RRB representative interviews the applicant either at a field office, an itinerant point, or by telephone. During the interview, the RRB representative enters the information obtained into an on-line information system. Upon completion of the interview, the on-line information system generates Form AA–1cert, Application Summary and Certification, or Form AA–1sum, Application Summary, a summary of the information that was provided for the applicant to review and approve. Form AA–1cert documents approval using the traditional pen and ink "wet" signature, and Form AA–1sum documents approval using the alternative signature method called Attestation. When the RRB representative is unable to contact the applicant in person or by telephone, for example, the applicant lives in another country, a manual version of Form AA–1 is used.

Form AA–1d, *Application for Determination of Employee's Disability,* is completed by an employee who is filing for a disability annuity under the RRA, or a disability freeze under the Social Security Act for early Medicare based on a disability. Form G–204, *Verification of Worker's Compensation/Public Disability Benefit Information,* is used to obtain and verify information concerning a worker's compensation or a public disability benefit that is or will be paid by a public agency to a disabled railroad employee.

One response is requested of each respondent. Completion of the forms is required to obtain/retain a benefit.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (81 FR 47183 on July 20, 2016) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Title: Application for Employee Annuity Under the Railroad Retirement Act.

OMB Control Number: 3220–0002.

Form(s) submitted: AA–1, AA–1cert, AA–1d, AA–1sum and G–204.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: The Railroad Retirement Act provides for payment of age, disability and supplemental annuities to qualified employees. The application and related forms obtain information about the applicant's family work history, military service, disability benefits from other government agencies and public or private pensions. The information is used to determine entitlement to and the amount of the annuity applied for.

Changes proposed: The RRB proposes the following changes to Forms AA–1 and AA–1d:

- Deletion of Item 35a-d from Form AA–1, regarding the relinquishment of seniority rights;
- the relocation of current Items 52–53 from Form AA–1d to proposed Items 48a-b on Form AA–1, regarding whether an applicant had filed or expected to file a lawsuit or claim against a person or company for a personal injury that resulted in the payment of sickness benefits by the RRB, as the potential for uncollected sickness benefits can apply to both a disability applicant as well as an applicant qualified for an age and service annuity.
- Comparable revisions to electronic equivalent forms (AA–1cert and AA–1sum) are also being proposed.

No other changes are proposed.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–1 (without assistance)	100	62	103
AA–1cert (with assistance)	4,620	30	2,310
AA–1sum (with assistance)	8,000	29	3,867
AA–1d (with assistance)	2,600	60	2,600
AA–1d (without assistance)	5	85	7
G–204	20	15	5
Total	15,345	....	8,892

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–1275 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Associate Chief Information Officer for Policy and Compliance.

[FR Doc. 2016–23526 Filed 9–28–16; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78919; File No. SR–MIAX–2016–32]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fee Schedule To Modify the Exchange's Connectivity Fees

September 23, 2016.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the "Fee Schedule") to modify the Exchange's connectivity fees.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule regarding connectivity to the Exchange. Specifically, the Exchange proposes to amend Section 4 of the Fee Schedule, Testing and Certification Fees, to state that Member and Non-Member Network Connectivity Testing and Certification Fees will not be assessed for testing and certification of connectivity to the Exchange's disaster recovery systems (for purposes of the Fee Schedule, the "Disaster Recovery Facility").[3] The Exchange also proposes to amend Section 5 of the Fee Schedule, System Connectivity Fees, to establish a new connectivity fee for 1 Gigabit ("Gb") and 10 Gb fiber connections to the Exchange's Disaster Recovery Facility.

Testing and Certification Fees

The Exchange currently offers various bandwidth alternatives for connectivity to the Exchange's System,[4] including a 10 Gb fiber connection, a 1 Gb fiber connection and a 10 Gb ultra-low latency ("ULL") fiber connection. The Exchange currently assesses a Member Network Connectivity Testing and Certification Fee of $1,000 for each 1 Gb connection, and $4,000 for each 10 Gb or 10 Gb ULL connection.[5] Non-Members are assessed a Non-Member Network Connectivity Testing and Certification Fee of $1,200 for each 1 Gb connection, and $4,200 for each 10 Gb or 10 Gb ULL connection.[6] The Exchange proposes to amend Sections 4(c) and 4(d) of the Fee Schedule to state that these Member and Non-Member Network Connectivity Testing and Certification Fees will not be assessed for testing and certification of connectivity to the Exchange's Disaster Recovery Facility.

The purpose of the Exchange's proposal not to charge Member and Non-Member network connectivity testing and certification fees for testing required in order to connect to the Disaster Recovery Facility is to eliminate any potential impediment to Members and Non-Members in testing and certifying for connectivity to the Disaster Recovery Facility, and to encourage Members and Non-Members to set up the connections to such Facility for disaster recovery purposes.

System Connectivity Fees

The Exchange currently assesses Monthly Member Network Connectivity fees for the applicable connectivity in any month when a Member or Non-Member is credentialed to use any of the MIAX APIs or Market Data feeds in the production environment.

The Exchange proposes to amend the table in Section 5 of the Fee Schedule to explicitly reflect the monthly Member and Non-Member Network connectivity fees as they apply to the Exchange's primary and secondary facilities, and to the Exchange's Disaster Recovery Facility. Under the proposal, fees for connectivity to the Exchange's primary and secondary (*i.e.,* backup) facilities will remain unchanged. The Exchange is proposing to amend the table in Section 5 to reflect the current per connection fees for connectivity with the primary and secondary facilities by labelling the heading of the columns reflecting such fees as "Primary/Secondary Facility" for a 1 Gb, 10 Gb and 10 Gb ULL connection, respectively.

The Exchange is proposing to add new columns to the table in Section 5 with the heading "Disaster Recovery Facility" to set forth the monthly per connection fees for a 1 Gb and 10 Gb connection to the Disaster Recovery Facility. Specifically, the Exchange proposes a monthly per connection Network Connectivity Fee of $500 for each 1 Gb connection to the Disaster Recovery Facility and a monthly per connection Network Connectivity Fee of $2,500 for each 10 Gb connection to the Disaster Recovery Facility for both Members and Non-Members. The Exchange does not propose to offer a 10 Gb ULL connection to the Disaster Recovery Facility at this time; the 10 Gb ULL fees will therefore remain unchanged. The Exchange proposes to amend the tables in Sections 5(a) and (b) to reflect this.

The Exchange believes that the proposed pricing for connectivity to the Disaster Recovery Facility is reflective of the value it will provide to users of the Exchange. The Exchange further believes that the assessment of connectivity fees to the Disaster Recovery Facility will assist the Exchange in recouping some of the costs to the Exchange associated with developing and maintaining this facility for disaster recovery use. Not charging users a testing and certification fee for testing required in order to connect to the Disaster Recovery Facility should encourage Members and Non-Members to connect to such facility. The Exchange notes that other exchanges charge fees for connection to their Disaster Recovery facilities by their market participants.[7]

The Exchange proposes to implement the proposed changes to the Fee Schedule effective as of September 16, 2016.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[10] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 321. *See also,* Securities Exchange Act Release No. 76303 (October 29, 2015), 80 FR 68373 (November 4, 2015) (SR–MIAX–2015–61).

[4] The term "System" means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[5] *See* Fee Schedule Section 4(c).

[6] *See* Fee Schedule Section 4(d).

[7] *See* Chicago Board Options Exchange, Incorporated ("CBOE") Fees Schedule, p. 13; *see also* NASDAQ PHLX LLC ("Phlx") Pricing Schedule, Section XI [sic].

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because the fees assessed for the connectivity to the Disaster Recovery Facility will allow the Exchange to cover certain of the costs associated with maintaining these Facility for disaster recovery use by users of the Exchange. The Exchange believes that the proposal to establish fees for the Disaster Recovery Facility connectivity is fair, equitable and not unreasonably discriminatory because the fees are assessed equally among all users according to the bandwidth that such user determines is the best suited for its purposes, *i.e.,* either 1 Gb or 10 Gb, and how many connections such Users require.

The Exchange believes that the Exchange's decision not to charge Member and Non-Member network connectivity testing and certification fees for testing required in order to connect to the Disaster Recovery Facility is consistent with Section 6(b)(4) of the Act because it will encourage Members and Non-Members to set up the connections to such Facility for disaster recovery purposes. Therefore, the Exchange believes that it is reasonable not to charge Members and Non-Members for testing and certification in relation to connecting to the Disaster Recovery Facility.

The Exchange also believes the proposed Disaster Recovery Facility connectivity fees are equitably allocated in that all Members and Non-Members will be charged the same amount to cover the connection costs depending on the speed of the connection as well as the number of connections selected by such user. All Members and Non-Members may subscribe to this connectivity to the Disaster Recovery Facility, and the Exchange is not eliminating any existing connectivity.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act[11] because the Disaster Recovery Facility connectivity will be beneficial to all MIAX participants. The Exchange anticipates that providing the opportunity to connect to the Disaster Recovery Facility to all users of the Exchange will further enhance the Exchange's support of risk management in the form of disaster recovery on behalf of its Member and Non-Member users.

The Exchange also believes that providing connectivity testing and certification at no cost for the Disaster Recovery Facility is consistent with Section 6(b)(5) of the Act because it is being offered to all MIAX participants at no cost. There is no differentiation among MIAX participants with regard to the testing and certification required to receive the disaster recovery services through the Disaster Recovery Facility.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes that the proposed changes should increase both intermarket and intramarket competition. Specifically, the Exchange believes that the changes will promote competition by offering MIAX participants more flexibility in their choice of disaster recovery services, which will in turn enhance their trading operations and ultimately bring greater efficiency to trading in the marketplace.

As to inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. The Exchange believes that the proposed changes reflect this competitive environment and may result in enhanced services to a market participant. Given the robust competition among options markets for the services that they each offer to market participants, expanding and thereby enhancing the services available on MIAX is consistent with the goals of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] and Rule 19b–4(f)(2)[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2016–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2016–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2016–32 and should be submitted on or before October 20, 2016.

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[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23497 Filed 9–28–16; 8:45 am]

BILLING CODE 8011–01–P

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78912; File No. SR–NASDAQ–2016–130]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq's Fees at Rule 7014(f)

September 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 16, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's fees at Rule 7014(f) to: (i) Change the criteria required to receive the rebates provided by the Lead Market Maker ("LMM") Program; (ii) change the rebates offered by the LMM Program; and (iii) rename the program the Designated Liquidity Provider ("DLP") Program, as described further below. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on October 3, 2016.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to: (i) Change the criteria required to receive the rebates provided by the LMM Program; (ii) change the rebates offered by the LMM Program; and (iii) rename the program the Designated Liquidity Provider Program.

The LMM Program is designed to provide incentives to market makers to make markets in certain exchange-traded products ("ETPs"). To achieve this goal, Nasdaq provides credits to a designated LMM for execution of a Qualified Security. Under Rule 7014(f)(1), a Qualified Security is defined as an exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705 (Exchange Traded Funds: Portfolio Depository Receipts and Index Fund Shares), 5710 (Securities Linked to the Performance of Indexes and Commodities, Including Currencies), 5720 (Trust Issued Receipts), 5735 (Managed Fund Shares), or 5745 (NextShares), and it must have at least one LMM.

An LMM is a registered Nasdaq market maker for a Qualified Security that has committed to maintain minimum performance standards. An LMM is selected by Nasdaq based on several factors including, but not limited to, experience with making markets in exchange-traded funds and index-linked securities, adequacy of capital, willingness to promote Nasdaq as a marketplace, issuer preference, operational capacity, support personnel, and history of adherence to Nasdaq rules and securities laws. Nasdaq may limit the number of LMMs in a security, or modify a previously established limit, upon prior written notice to members.

Rule 7014(f)(4) sets forth the criteria required, and the rebates and reduced fees provided, by the LMM Program. Currently, there are three tiers based on the amount of time an LMM is at the national best bid and offer ("NBBO"). Specifically, if an LMM is above 15% to 20% at the NBBO, it qualifies for: (i) A Displayed Liquidity Rebate (for executions $1 per share and above) of $0.0040 per executed share; (ii) a Displayed Liquidity Rebate (for executions less than $1 per share) of $0.0000 per executed share; and (iii) a maximum fee of $0.0005 per executed share for participation in the Halt, Opening, and Closing Crosses.[3] If an LMM is above 20% to 50% at the NBBO, it qualifies for: (i) A Displayed Liquidity Rebate (for executions $1 per share and above) of $0.0043 per executed share; (ii) a Displayed Liquidity Rebate (for executions less than $1 per share) of $0.0000 per executed share; and (iii) a maximum fee of $0.0000 per executed share for participation in the Halt, Opening, and Closing Crosses. Last, if an LMM is above 50% at the NBBO, it qualifies for: (i) A Displayed Liquidity Rebate (for executions $1 per share and above) of $0.0046 per executed share; (ii) a Displayed Liquidity Rebate (for executions less than $1 per share) of $0.0000 per executed share; and (iii) a maximum fee of $0.0000 per executed share for participation in the Halt, Opening, and Closing Crosses.

The Exchange is proposing to amend the rebates and criteria under the program to also take into consideration certain characteristics of the individual ETP.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A member participating in the Halt Cross would otherwise be assessed a fee of $0.0010 per share executed (*see* Rule 7018(f)). A member participating in the Opening Cross would otherwise be assessed a fee of no less than $0.0008 per share executed (*see* Rule 7018(e)). A member participating in the Closing Cross would otherwise be assessed a fee of no less than $0.0008 per share executed (*see* Rule 7018(d)).

First Change

The purpose of the first change is to amend the criteria required to receive the rebates provided by the LMM Program to better align the behavior required to qualify for rebates with the nature of the rebates provided. Specifically, in lieu of the current criteria, the Exchange is proposing to require all LMMs, which will be renamed DLPs as part of this filing and will be noted as such when discussed below,[4] to be at the NBBO at least 20% of the time in the assigned ETP in any given month in order to qualify for a Basic Rebate. In order to receive New Product Support Initiatives [sic], discussed below, a DLP must be at the NBBO at least 20% of the time in the assigned ETP in any given month, the ETP itself must have a three month average daily volume ("ADV")[5] of less than 500,000, and the ETP must be less than 36 months old. Thus, not only must the DLP contribute to market quality in the ETP by quoting at the NBBO, but the ETP itself must have relatively low volume. Last, to be eligible for new Additional Tape C ETP Incentives, discussed below, the average time the DLP is at the NBBO for each assigned ETP must average at least 20%, and the average liquidity provided by the DLP for each assigned ETP must average at least 5% of the liquidity provided on Nasdaq in the respective ETP.[6]

Second Change

The purpose of the second change is to modify the incentives provided by the program. As discussed above, the Exchange currently provides rebates and reduced fees if an LMM meets the minimum criteria of a tier. In lieu of the current incentives, the Exchange is adopting three new incentives that it believes are more targeted to improving market quality in ETPs.

First, the Exchange is proposing to provide Basic Rebates to DLPs that qualify under the proposed "Basic Rebates" criteria of being at the NBBO at least 20% of the time on average in any given month in a particular ETP. The Basic Rebates are available for each of a DLP's assigned ETPs that it qualified for under the performance criteria. The Basic Rebates vary based on the level of ADV the ETP has in a given month. Specifically, a DLP will receive: (i) A rebate of $0.0047 per executed share of displayed liquidity in an ETP that has ADV less than 500,000 during the month; (ii) a rebate of $0.0042 per executed share of displayed liquidity in an ETP that has ADV between 500,000 and 5 million during the month; and (iii) a rebate of $0.0036 per executed share of displayed liquidity in an ETP that has ADV greater than 5 million during the month. Thus, the new rebate schedule takes into consideration the nature of the market in the individual ETP, with the Exchange providing the greatest incentive to DLPs to participate in the program in ETPs that have the lowest volumes.

Second, the Exchange is proposing New Product Support Incentives to incentivize DLPs to support trading in newly-launched ETPs.[7] The New Product Support Incentives are provided in lieu of the Basic Rebates. Like the Basic Rebates, the New Product Support Initiatives [sic] are only available in the assigned ETPs that the DLP qualifies for under the New Product Support Incentives performance criteria. The proposed incentives are based on the length of time since the ETP was launched,[8] providing declining levels of rebate as the ETP matures. In particular, the Exchange is proposing to offer to all DLPs that qualify under the New Product Support Incentives criteria a rebate of $0.0070 per executed share of displayed liquidity in the ETP in a newly-launched ETP with ADV less than 500,000 up to 12 months from the ETP's product inception date, a rebate of $0.0065 per executed share of displayed liquidity in the ETP for the period 12 to 24 months from the product inception date, and a rebate of $0.0055 per executed share of displayed liquidity in the ETP for the period 24 to 36 months from the product inception date. For purposes of calculating the number of months under the rule, the first partial month an ETP is launched will count as one month.

Third, the Exchange is proposing Additional Tape C ETP incentives. Specifically, the Exchange is proposing to offer DLPs that qualify under the Additional Tape C ETP Incentive criteria three tiers of rebates for each displayed share that adds liquidity in Tape C ETPs that meet the criteria of Rule 7014(f)(1)(A).[9] These rebates are provided in addition to other rebates or fees provided under Rules 7018 and 7014, including the proposed Basic Rebates or New Product Support Incentives. Eligibility for each tier is based on the number of ETPs the DLP is assigned under the program. Specifically, an eligible DLP that has at least 10 ETPs assigned to them during a given month will receive a rebate of $0.0003 per share executed in a Tape C ETP. An eligible DLP that has at least 25 assigned ETPs will receive a rebate of $0.0004 per share executed in a Tape C ETP in lieu of the $0.0003 per share executed rebate. An eligible DLP that has at least 50 assigned ETPs will receive a rebate of $0.0005 per share executed in a Tape C ETP in lieu of the $0.0003 and $0.0004 per share executed rebates. Thus, the Exchange is providing incentive to members to participate as DLPs in a significant number of ETPs.

The Exchange is also providing a DLP that qualifies under the Additional Tape C ETP Incentive criteria yet has fewer than 10 ETPs assigned to them the ability to qualify for a $0.0001 per share executed rebate in Tape C ETPs that meet the criteria of Rule 7014(f)(1)(A) if it increases the number of ETPs for which it is a DLP by 100%. A DLP is only eligible for the first 100% increase and will not receive additional $0.0001 per share executed rebates for subsequent 100% increases to the number of assigned ETPs. For example, if an existing DLP has three assigned ETPs and thereafter is approved as a DLP for three additional ETPs, the DLP would receive an additional $0.0001 per share executed rebate for each displayed share that adds liquidity in a Tape C ETP that meets the criteria of Rule 7014(f)(1)(A). A new DLP will be considered a 100% increase and also receive the one-time $0.0001 per share executed rebate in Tape C ETPs that meets the criteria of Rule 7014(f)(1)(A) in the DLP Program upon receiving their first ETP assignment. Thus, a newly-approved DLP will receive the additional $0.0001 per share executed rebate in Tape C ETPs as described above when it is initially assigned an ETP under the DLP Program if the total number of ETPs assigned is less than ten, but the newly-approved DLP would not be eligible for additional $0.0001 per share executed rebates for subsequent 100% increases to the number of assigned ETPs.

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[4] As discussed in detail below, the Exchange is proposing to rename the LMM program as the Designated Liquidity Provider program. As a consequence, LMMs will be renamed DLPs. For purposes of this filing, the use of the term DLP is synonymous with the term LMM.

[5] The Exchange is defining average daily volume, for purposes of the DLP Program, to mean the total consolidated volume reported to all consolidated transaction reporting plans, for each individual security, by all exchanges and trade reporting facilities during a month divided by the number of trading days during the month. If a security is not listed for a full month, the number of trading days will only include the days in which the security is listed.

[6] For example, assume a DLP has 20 assignments. If a DLP quotes at the NBBO 50% of the time in 10 of the ETPs and in the remaining 10 ETPs quotes at the NBBO 40% of the time, the average for the purposes of this calculation will be 45%. Nasdaq will calculate the liquidity provided by the DLP as a percent of liquidity provided in each assigned ETP on Nasdaq. Nasdaq will then average these percentages across symbols. For example, if the DLP is 10% of the added liquidity in 10 of the ETPs and 4% of the added liquidity in the remaining 10 ETPs the average for this calculation will be 7%. In this instance the DLP will have met the criteria on average for the additional incentive, even though it failed to meet the criteria for all 20 ETPs individually.

[7] Because the New Product Support Incentives implicates Rule 102 of Regulation M, the Commission is separately considering a limited, conditional exemption for issuers whose securities are subject to the New Product Support Initiative [sic].

[8] The Exchange considers an ETP's launch date to be the inception date of the ETP. For example, if an ETP launched on August 17, 2016, then the ETP is considered a new product with a fund inception date of August 17, 2016. Nasdaq will offer an enhanced rebate of ($0.0070) on the ETP up through July 2017 (assuming the ADV threshold requirement of the New Product Support Incentives was not breached).

[9] Rule 7014(f)(1)(A) sets forth the ETPs that may be included in the program.

Third Change

The purpose of the third change is to change the name of the program. The Lead Market Maker Program had previously been named the Designated Liquidity Provider Program. In 2015, the Exchange changed the name of the program to the Lead Market Maker program and, accordingly, changed references to "Designated Liquidity Providers" and "DLPs" to "Lead Market Makers" and "LMMs," respectively.[10] At the time, the Exchange noted that the term Lead Market Maker was more descriptive of who was eligible for the program (*i.e.*, market makers), as opposed to a Designated Liquidity Provider, which could lead a market participant to believe that any market participant was eligible to qualify for the program. After receiving industry feedback, the Exchange now believes that the name Designated Liquidity Provider is, in fact, not confusing to market participants. Moreover, the Exchange notes that the rule explicitly defines an LMM (now DLP) as a "registered Nasdaq market maker."[11] Consequently, Nasdaq is changing the name of the program back to the "Designated Liquidity Provider Program." As was the case when the Exchange renamed the program in 2015, the proposed change in the program's name and terminology does not impact the operation of the program.[12]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

First Change

The Exchange believes that amending the criteria required for a DLP to be eligible for the rebates by better aligning the behavior required to qualify for rebates with the nature of the rebates provided is reasonable because the Exchange must from time to time assess the effectiveness of the incentives it provides to market participants in return for the beneficial behavior required to receive the incentive. In this case, the Exchange is amending the program to include more targeted incentives and is applying not only the current NBBO-based criteria, but also other measures of beneficial market participation and ETP market quality. Specifically, the Exchange is applying an average daily volume standard to determine if an ETP qualifies for the New Product Support Incentives, which ties the availability of the incentive to a certain relatively low level of ADV thus ensuring that the ETP's market quality needs improvement. As used in the DLP Program, ADV is, for each individual security, the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month divided by the number of trading days during the month.

The Exchange is also applying a measure of average liquidity provided in the DLP's assigned ETPs to qualify for the Additional Tape C ETP Incentives, which requires the DLP to, on average, provide at least 5% of the liquidity provided on Nasdaq in their assigned ETPs. The Exchange believes that the proposed ETP liquidity criteria of the Additional Tape C ETP Incentive tier ensures that the DLP is providing an adequate level of liquidity in an ETP in addition to quoting at the NBBO in all of its assigned ETPs at an average at least 20% of the time in each ETP.

The Exchange believes that the proposed eligibility criteria are an equitable allocation and are not unfairly discriminatory because the Exchange will apply the same criteria to all DLPs. The Exchange also believes that the proposed eligibility criteria are an equitable allocation and are not unfairly discriminatory among Exchange members because any member may become a market maker and take the steps necessary to also become a DLP, including meeting the proposed minimum criteria under Rule 7014(f)(4). The DLP Program is limited to Exchange market makers because of their unique role in the markets, including their obligation to provide liquidity in the securities in which they are registered.[15] Thus, the DLP Program is a further extension of the market maker's role in providing liquidity in specific securities, to the benefit of all market participants.

Second Change

The Exchange believes that the proposed new rebates are reasonable because they are better designed to provide incentives to DLPs to improve the market in ETPs that are in need of improved market quality. With respect to the Basic Rebates, the Exchange is providing three tiers of rebates, ranging from $0.0036 to $0.0047 per executed share of displayed liquidity in the ETP. The current Displayed Liquidity Rebate (for executions $1 per share and above) ranges from $0.0040 to $0.0046 per share executed. Thus, the levels of the rebates currently offered and proposed are comparable.

The Exchange believes that the proposed rebates provided under the New Product Support Incentives are reasonable because they provide significant incentive in return for critical support of new ETPs. Generally, new ETPs launch with low volume, yet improve significantly over time. Low volume leads to less liquid markets for participants seeking to transact in these newly-listed securities. Consequently, the Exchange is proposing to provide incentives that decrease over time, beginning with a rebate to qualifying DLPs of $0.0070 during the first twelve months post ETP launch, $0.0065 during the second twelve-month period, and $0.0055 for the third twelve-month period. The Exchange believes that these graduated rebates will provide adequate incentive to DLPs to support trading in new ETPs until they have reached a level of maturity where such support is not needed.

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[10] *See* Securities Exchange Act Release No. 75389 (July 8, 2015), 80 FR 41133 (July 14, 2015) (SR–NASDAQ–2015–071).

[11] *See* Rule 7014(f)(2).

[12] *Supra* note 10.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] *See* Rule 4613 for a description of Exchange market maker obligations.

The Exchange believes that the proposed Additional Tape C ETP rebates are reasonable because they provide additional incentive to DLPs to register in ETPs. Increasing the number of DLPs that any given ETP has will improve market quality in the ETP, since DLPs have performance requirements designed to improve market quality in the assigned ETP. The rebates are tied to the number of ETPs a DLP that meets the proposed eligibility criteria under Rule 7014(f)(4) is assigned, increasing in conjunction with the number of assigned ETPs. Moreover, the Exchange is providing a one-time $0.0001 per executed share rebate in Tape C ETPs to both existing and newly-approved DLPs that have less than ten ETPs assigned, but increase the number of ETPs assigned by 100%. The Exchange believes that this one-time rebate may provide incentive to DLPs to increase the number of ETPs assigned significantly, and also incentivize market makers who are not DLPs to participate in the program thereby promoting greater participation in the program to the benefit of all market participants transacting in the DLP Program ETPs.

The Exchange believes that all of the proposed rebates are an equitable allocation and are not unfairly discriminatory because the Exchange will provide the same rebate to all similarly situated DLPs. The Exchange believes that limiting securities eligible for the program to ETPs that are new or have relatively low volumes is an equitable allocation and is not unfairly discriminatory because these securities are the most in need of improved market quality. Moreover, the New Product Support Incentives are reduced over time as the ETP matures and the market in the ETP improves, eventually ending 36 months after the ETPs inception date. Thus, the New Product Support Incentives are of limited duration, with the ETPs eligible for New Product Support Incentives treated like other ETPs of the DLP Program once they reach the 36 month from product inception limit of these incentives. The Exchange also believes that the proposed rebates are an equitable allocation and are not unfairly discriminatory among Exchange members because, as noted above, any member may become an Exchange market maker and take the steps necessary to also become a DLP, including meeting the proposed minimum criteria under Rule 7014(f)(4). As noted above, the DLP Program is limited to Exchange market makers because of their unique role in the markets, including their obligation to provide liquidity in the securities that they are registered in. Thus, the DLP Program is a further extension of the market maker's role in providing liquidity in specific securities.

Third Change

The Exchange believes that the proposed change in the name of the program and its terminology further perfects the mechanism of a free and open market and a national market system, and, in general, promotes public interest because it reverts the program to its long-standing former name and terminology. As noted, the Exchange is making the change in response to industry feedback, which noted a preference for the prior name and terminology, and did not believe that it would be confusing. In support of this last point, the Exchange notes that the rule clearly indicates that it applies to only registered Nasdaq market makers. Thus, the Exchange believes that reverting the name of the program and its terminology is consistent with further perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange is proposing to modify the incentives provided to market makers for participation in the DLP program in an effort to improve the program by providing more targeted incentives to improve market quality in ETPs that are in need of such improvement the most. The Exchange uses incentives, such as the rebates of the DLP program, to incentivize market participants to improve the market. The Exchange must, from time to time, assess the effectiveness of incentives and adjust them when they are not as effective as the Exchange believes they could be. Moreover, the Exchange is ultimately limited in the amount of rebates it may offer. The proposed new criteria and incentives are reflective of such an analysis.

The Exchange notes that participation in the DLP program is entirely voluntary and, to the extent that registered market makers determine that the rebates are not in line with the level of market-improving behavior the Exchange requires, a DLP may elect to deregister as such with no penalty. The Exchange notes that it is raising the minimum criteria required for a DLP to receive a rebate under the program, and thus there is a risk that a DLP may not qualify for any of the incentives under the amended program if it provides the same level market participation.

The Exchange does not believe that the change places an unnecessary burden on competition because the increase in the minimum criteria is relatively small and the level of rebate a DLP may receive is significantly higher in lower volume ETPs under the Basic Rebates. In sum, if the changes proposed herein are unattractive to market makers, it is likely that the Exchange will lose participation in the DLP program as a result. As noted above, the Exchange is continuing to limit eligibility for the program to Exchange market makers. The Exchange believes that Exchange market makers are best positioned to provide market improvement in DLP Program ETPs in light of their unique function in the markets. Moreover, any Exchange member may elect to take the steps necessary to become an Exchange market maker and therefore become eligible for the program if they choose. Thus, the Exchange does not believe that the proposal represents a burden on competition among Exchange members, or that the proposal will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2016–130 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–130. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–130 and should be submitted on or before October 20, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23490 Filed 9–28–16; 8:45 am]

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[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78925; File No. SR–FINRA–2016–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change Relating to TRACE Reporting and Dissemination of CMO Transactions

September 23, 2016.

I. Introduction

On June 27, 2016, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change related to Trade Reporting and Compliance Engine ("TRACE") reporting and dissemination of transactions in Collateralized Mortgage Obligations ("CMOs").[3] The proposed rule change was published for comment in the **Federal Register** on July 6, 2016.[4] The Commission received three comments in response to the proposal.[5] FINRA responded to the comments on September 14, 2016.[6] FINRA extended the time period within which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved to September 23, 2016.[7] This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

Historically, FINRA has utilized TRACE to collect from its members and publicly disseminate information on secondary, over-the-counter transactions in corporate debt securities, Agency Debt Securities,[8] and certain primary market transactions. For certain other asset types, FINRA utilized TRACE to collect transaction information, but until recently, did not disseminate such information publicly. FINRA has been working to phase-in the dissemination of transaction information for these previously non-disseminated asset types. To date, FINRA has implemented dissemination of Agency Pass-Through Mortgage-Backed Securities and SBA-Backed ABS;[9] TRACE-Eligible

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "Collateralized Mortgage Obligation" is defined in FINRA Rule 6710(dd).

[4] *See* Securities Exchange Act Release No. 78196 (June 29, 2016), 81 FR 44065 ("Notice").

[5] *See* letters to Brent J. Fields, Secretary, Commission, from Mike Nicholas, Chief Executive Officer, BDA, dated July 27, 2016 ("BDA Letter"); Lynn Martin, President and Chief Operating Officer, ICE Data Services, dated July 27, 2016 ("ICE Letter"); and Chris Killian, Managing Director, Securitization, SIFMA, dated July 27, 2016 ("SIFMA Letter").

[6] *See* letter to Brent J. Fields, Secretary, Commission, from Alexander Ellenberg, Associate General Counsel, Regulatory Policy and Oversight, FINRA, dated September 14, 2016 ("FINRA Response Letter").

[7] *See* letter to Katherine England, Assistant Director, Division of Trading and Markets, Commission, from Alexander L. Ellenberg, Assistant General Counsel, Regulatory Policy and Oversight, FINRA, dated August 9, 2016 (extending to September 9, 2016); letter to Katherine England, Assistant Director, Division of Trading and Markets, Commission, from Alexander L. Ellenberg, Associate General Counsel, Regulatory Policy and Oversight, FINRA, dated September 2, 2016 (extending to September 23, 2016).

[8] The term "Agency Debt Security" is defined in FINRA Rule 6710(*l*).

[9] On November 12, 2012, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities traded TBA. *See* Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (approving SR–FINRA–2012–020); FINRA's *Regulatory Notice* 12–26 (May 2012) and *Regulatory Notice* 12–48 (November 2012). On July 22, 2013, FINRA began disseminating transactions in Agency Pass-Through Mortgage-Backed Securities traded in Specified Pool Transactions and SBA-Backed ABS traded TBA or in Specified Pool Transactions. *See* Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (approving SR–FINRA–2012–042); FINRA's *Regulatory Notice* 12–56 (December 2012). The

Continued

Securities effected as Rule 144A transactions;[10] and Asset-Backed Securities.[11] The remaining types of Securitized Products[12] not yet subject to dissemination are CMOs, commercial mortgage-backed securities ("CMBSs"), and collateralized debt obligations ("CDOs").[13] FINRA now has proposed to provide for public dissemination of certain information about CMO transactions,[14] to reduce the time period within which a CMO transaction must be reported to TRACE, and to make conforming and technical revisions to its rules, as described below.

Dissemination of CMO Transaction Information

Currently, FINRA Rule 6750 states that FINRA will not disseminate information on a transaction in a TRACE-Eligible Security that is a Securitized Product, with the following exceptions: An Agency Pass-Through Mortgage-Backed Security, an SBA-Backed ABS, and an Asset-Backed Security.[15] FINRA has proposed to revise this rule to provide for public dissemination of certain information on transactions in CMOs, including those effected pursuant to Rule 144A. Accordingly, FINRA has proposed to reframe the description of Securitized Products not subject to dissemination to delineate those Securitized Products that would remain outside of the scope of contemporaneous dissemination: CMBSs, CDOs,[16] and certain CMOs.[17]

Under the proposal, depending on the size of the transaction and the number of transactions in the CMO security in a given period, a CMO transaction could be subject to immediate trade-by-trade dissemination or periodic aggregate dissemination, or remain exempt from dissemination entirely. FINRA would immediately disseminate information about a CMO transaction having a value under $1 million (calculated based upon original principal balance of the particular CMO security).[18] For a CMO transaction having a value of $1 million or more (calculated based upon original principal balance of the particular CMO security) and where there have been five or more transactions in that security of $1 million or more in the period reported by at least two different market participant identifiers ("MPIDs"), FINRA would disseminate aggregated information about transactions in that security on a weekly and/or monthly basis.[19] If a CMO transaction does not meet the criteria for either immediate trade-by-trade dissemination or, based on recent activity in that particular CMO security, periodic aggregate dissemination, such transaction would not be subject to public dissemination in any form (but would, as described below, be available in the historic data sets).[20]

Reduction of Reporting Period

FINRA also proposed to amend FINRA Rule 6730 to reduce the period within which a member must report a CMO transaction executed on or after issuance and to implement a clearer deadline for reporting a CMO transaction executed prior to issuance. Currently, a CMO transaction executed on or after issuance must be reported to TRACE no later than the close of the TRACE system on the date of execution.[21] FINRA has proposed to require that each CMO transaction be reported to TRACE within 60 minutes of execution.[22] Currently, a CMO transaction executed before the date of issuance of the security must be reported to TRACE by the earlier of (i) the business day that the security is assigned a CUSIP, a similar numeric identifier, or a FINRA symbol; or (ii) the date of issuance of the security.[23] Under the proposal, such a CMO transaction would need to be reported to TRACE no later than the first settlement date of the security.[24]

Data Availability

The proposal would amend FINRA Rule 7730, which establishes various TRACE data products, to reflect the addition of CMO transactions to the applicable data sets. Currently, the "SP Data Set" for real-time data includes each transaction in a Securitized Product that is publicly disseminated, except for a Rule 144A transaction. Under the proposal, the SP Data Set would be expanded to include any transaction in a CMO security that is disseminated on an immediate trade-by-trade basis or included in a weekly or monthly aggregated report.[25] Currently, the "Historic SP Data Set" includes each historic transaction in a Securitized Product reported to TRACE, if a

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terms "TBA," "Agency Pass-Through Mortgage-Backed Security," "Specified Pool Transaction," and "SBA-Backed ABS" are defined in FINRA Rule 6710(u), (v), (x), and (bb), respectively.

[10] On June 30, 2014, FINRA began disseminating transactions in TRACE-Eligible Securities effected as Rule 144A transactions, provided that such transactions were in securities that would be subject to dissemination if effected in non-Rule 144A transactions. *See* Securities Exchange Act Release No. 70345 (September 6, 2013), 78 FR 56251 (September 12, 2013) (approving SR–FINRA–2013–029); Securities Exchange Act Release No. 70691 (October 16, 2013), 78 FR 62788 (October 22, 2013) (SR–FINRA–2013–043); FINRA's *Regulatory Notice* 13–35 (October 2013). "TRACE-Eligible Security" is defined in FINRA Rule 6710(a).

[11] On June 1, 2015, FINRA began disseminating transactions in a group of newly-defined Asset-Backed Securities. *See* Securities Exchange Act Release No. 71607 (February 24, 2014), 79 FR 11481 (February 28, 2014) (approving SR–FINRA–2013–046); FINRA's *Regulatory Notice* 14–34 (August 2014). "Asset-Backed Security" is defined in FINRA Rule 6710(cc).

[12] "Securitized Product" is defined in FINRA Rule 6710(m).

[13] *See* Notice, 81 FR at 44066.

[14] FINRA stated that CMOs are the largest and most actively traded of the remaining Securitized Product types and typically have relatively smaller transaction sizes than CMBSs and CDOs. *See id.*

[15] *See* FINRA Rule 6750(b)(4).

[16] FINRA has proposed to define "Collateralized Debt Obligation" ("CDO") to mean "a type of Securitized Product backed by fixed-income assets (such as bonds, receivables on loans, or other debt) or derivatives of these fixed-income assets, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal and/or interest in accordance with the requirements adopted for the specific class or tranche. A CDO includes, but is not limited to, a collateralized loan obligation ('CLO') and a collateralized bond obligation ('CBO')." *See* proposed FINRA Rule 6710(ff). FINRA also has proposed to amend the definition of "Asset-Backed Security" to harmonize with the newly defined term "CDO." *See* proposed FINRA Rule 6710(cc).

[17] *See* proposed FINRA Rule 6750(c)(4).

[18] *See* proposed FINRA Rule 6750(a).

[19] *See* proposed FINRA Rule 6750(b). For a particular CMO security, a weekly report would be issued for each week during which at least five transactions in that security of $1 million or more occurred and such transactions were reported by at least two unique MPIDs. A monthly report for a CMO security would be issued for each month during which at least five transactions in that security of $1 million or more occurred and such transactions were reported by at least two unique MPIDs, regardless of whether such transactions had qualified for weekly reporting. FINRA stated that, for purposes of determining if a CMO security has been reported by at least two unique MPIDs, FINRA would consider an interdealer trade to be reported by one MPID (the sell side dealer), even though the trade would be reported by both sides of the transaction. *See* Notice, 81 FR at 44066, n. 11.

[20] *See* proposed FINRA Rule 6750(c)(4).

[21] *See* FINRA Rule 6730(a)(3)(A). This rule contains exceptions for transactions executed within 90 minutes of the close of the TRACE system and transactions executed when the system is closed.

[22] *See* proposed FINRA Rule 6730(a)(3)(H)(ii). Exceptions for transactions executed within 60 minutes of the close of the TRACE system and transactions executed when the system is closed are set forth in subparts (i), (iii), and (iv) of proposed FINRA Rule 6730(a)(3)(H).

[23] *See* FINRA Rule 6730(a)(3)(C).

[24] *See* proposed FINRA Rule 6730(a)(3)(C). FINRA stated its belief that the proposal would provide a uniform reporting deadline that could be easily ascertained by all firms because new issuances in CMOs generally settle on the last business day of the month. FINRA explained that, under the current rule, some firms have had difficulty in determining with accuracy and in a timely manner when the reporting obligation has been triggered, due to inconsistencies in how underwriters and trading parties communicate relevant information. *See* Notice, 81 FR at 44067.

[25] *See* proposed FINRA Rule 7730(c).

transaction in that type of Securitized Product is subject to immediate trade-by-trade dissemination, but excludes a historic transaction in a Rule 144A security. Under the proposal, the Historic SP Data Set would be expanded to include all non-Rule 144A CMO transactions, even if not previously disseminated immediately or as part of a periodic report.[26] Currently, the "Rule 144A Data Set" and the "Historic Rule 144A Data Set" include real-time data and historic data, respectively, for Rule 144A transactions reported to TRACE. Under the proposal, with respect to transactions in CMO securities issued pursuant to Rule 144A, the Rule 144A Data Set would be expanded to include transactions in CMO securities that had been disseminated on an immediate trade-by-trade basis or on a periodic aggregate basis, and the Historic Rule 144A Data Set would be expanded to include historic data on all CMO transactions, whether or not they had been subject to any form of dissemination previously.[27] FINRA has not proposed to amend the fees currently in effect for the SP Data Set, Historic SP Data Set, Rule 144A Data Set, or Historic Rule 144A Data Set based on inclusion of this additional data.[28]

Other Technical Changes

FINRA has proposed to amend a provision in FINRA Rule 6730(a) that provides general requirements for reporting Securitized Products to make clear that this provision will apply specifically to CDOs and CMBSs.[29] FINRA also has proposed to eliminate certain provisions that have expired in FINRA Rule 6730(a).[30] Finally, FINRA has proposed to make technical and conforming changes to the FINRA Rule 7730 and the Rule 6700 series to reflect the changes to the TRACE reporting and dissemination requirements for CMO transactions discussed above.[31]

Effective Date of Proposed Rule Change

FINRA has stated that it would announce the operative date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval, and that the operative date would be no later than 365 days following publication of that *Regulatory Notice*.[32]

III. Summary of Comments and FINRA's Response

The Commission received three comments on the proposed rule change [33] and a response letter from FINRA.[34] All three commenters were generally supportive but suggested certain revisions to the proposal. For example, all three commenters questioned the proposed $1 million threshold for immediate trade-by-trade dissemination, but they suggested conflicting alternatives. One commenter argued that the $1 million threshold is too high and suggested lowering the threshold to no more than $500,000 "to ensure only truly retail-sized transactions are subject to real-time dissemination." [35] This commenter stated that its members "recognize the benefits to the market of greater price transparency, but at the same time recent experience with TBAs, specified pools, and other types of securities illustrate the detrimental impact overly broad TRACE dissemination can have, particularly with respect to the ability for market participants to easily transact in size." [36] Further, this commenter noted that, because in the CMO market "the securities are even less liquid and more unique, liquidity concerns are heightened." [37]

Another commenter argued that the $1 million threshold is too low to meaningfully improve transparency and suggested that FINRA consider incrementally increasing the threshold in stages until all CMO transactions are disseminated on an immediate trade-by-trade basis.[38] This commenter stated that limiting immediate dissemination to smaller CMO transactions could be confusing to retail and smaller institutional investors because the prices of smaller CMO trades are "typically less representative of where near-term next trading levels are typically conducted." [39] This commenter also recommended that FINRA set the initial threshold for immediate dissemination at $1 million based on the current principal balance, rather than on the original principal balance.[40]

A third commenter requested that FINRA remove the $1 million threshold entirely, based on a view that the proposed thresholds for dissemination on a trade-by-trade or on a periodic aggregate basis "will create a bifurcated market that will disadvantage the smaller trades that will be disseminated in real-time and small-to-medium sized dealers that more frequently transact in smaller quantities compared to the largest dealers." [41] This commenter predicted that institutional investors would "avoid trading in sub-$1 million quantities . . . to avoid information leakage" and "seek to transact with financial institutions that are not required to report trades to TRACE." [42] This commenter argued that greater trade-by-trade dissemination would have a negative impact on liquidity and the proposal would "almost exclusively impair market liquidity for transactions of $1 million and less." [43]

In response to these comments, FINRA stated that it "continues to believe that the $1 million threshold is an appropriate balance between transparency and the risk of decreased liquidity provision." [44] FINRA explained that it received similar comments on an earlier iteration of the proposal and took these comments into account when finalizing the proposed rule change, based on the reasons explained in the Notice and the economic analysis contained therein.[45] FINRA also stated that it will assess whether there is a need for additional transparency in the future.[46]

One commenter recommended a higher minimum activity level threshold for new-issue CMO transactions to be included in periodic aggregate reports so that dissemination would focus on secondary market activity.[47] FINRA responded that the proposed threshold of five transactions, combined with the use of periodic aggregate reports rather than trade-by-trade dissemination for certain transactions, should satisfy the commenter's concern and that FINRA's proposed approach was appropriate.[48]

Another commenter suggested that the periodic aggregate reports should include the most recent trade price, as this would allow retail investors to reference the last trade price when engaging in price discovery for future trades and thereby better align retail and institutional execution quality.[49] FINRA responded that it previously considered including the last sale price in the reports, but modified an earlier version of the proposal to remove this and other data fields in response to concerns about the potential for reverse-engineering the data.[50]

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[26] *See* proposed FINRA Rule 7730(f)(4)(C). *See also* Notice, 81 FR at 44066, n. 12.

[27] *See* proposed FINRA Rule 7730(c), (f)(4)(D). *See also* Notice, 81 FR 44066, n. 12.

[28] *See* Notice, 81 FR at 44066, n. 12 (stating that "[t]he inclusion of this additional data in such data sets will not affect the fees currently in effect").

[29] *See* proposed FINRA Rule 6730(a)(3)(A). FINRA noted that after the proposed rule change becomes effective, this provision would apply only to these two types of Securitized Products. *See* Notice, 81 FR at 44067, n. 15.

[30] *See* proposed FINRA Rule 6730(a)(3)(B).

[31] *See* Notice, 81 FR at 44065.

[32] *See id.* at 44067.

[33] *See supra* note 5.

[34] *See supra* note 6.

[35] SIFMA Letter at 1–2.

[36] *Id.* at 1.

[37] *Id.*

[38] *See* ICE Letter at 2, 5.

[39] *Id.* at 3–4.

[40] *See id.* at 5.

[41] BDA Letter at 1.

[42] *Id.* at 1–2.

[43] *Id.* at 2.

[44] FINRA Response Letter at 2.

[45] *See id.*

[46] *See id.*

[47] *See* SIFMA Letter at 2. This commenter also recommended that multiple dealer-to-dealer trades done in the same CMO security at the time of the initial distribution be counted as one trade for purposes of calculating the periodic aggregate dissemination threshold. *See id.*

[48] *See* FINRA Response Letter at 3.

Two commenters commented on the proposed shortening of the reporting period for CMO transactions executed on or after issuance from end-of-day to within 60 minutes of execution. One commenter supported this aspect of the proposal and stated that, as compared to an even shorter time period considered initially, this reporting period "is a vast improvement for smaller dealers that have fewer operational and trading personnel focused on trade reporting." [51] Another commenter suggested a six-month pilot period to phase in the reduction in reporting time, as has been done for other product types.[52] This commenter acknowledged that many of its members currently report CMO transactions in less than 60 minutes, but noted that this is not always the case and that a pilot period "would help ensure that dealers are able to implement necessary system changes and avoid errors." [53] FINRA responded that it initially considered a shorter reporting timeframe with a phased-in implementation period, but modified its proposal to a reporting period longer than either phase proposed initially "to lessen the potential costs of the Proposal while still providing sufficiently timely transparency to the market." [54] FINRA noted that 84% of CMO transactions are already reported to TRACE within 60 minutes and that it continues to believe that the proposed reporting timeframe is appropriate and not unduly burdensome.[55]

Two commenters expressed their support for the revised reporting timeframe for CMO transactions executed before issuance. One commenter noted that its members strongly support the revised reporting time and that it had requested this change because of resource constraints faced by some small and mid-sized firms that prevent them from actively monitoring all CMO data feeds and thereby knowing if a particular CUSIP has been issued.[56] Another commenter stated the new standard "should provide dealers with sufficient flexibility to report a transaction as early as one or two days prior to the first settlement date, if settlement details are available." [57]

Finally, one commenter requested clarification of the definition of "CMO" because the current definition encompasses Ginnie Mae Project Loans, which (according to the commenter) market participants consider agency CMBS, in apparent conflict with FINRA's stated intention that the proposed rule change would apply to CMOs, but not CMBSs or CDOs. This commenter suggested that project loan securities should be outside the scope of the proposed rule change and the definition of "CMO" should be adjusted accordingly.[58] FINRA responded that agency CMBSs fall within the definition of "CMO" and are within the intended scope of the proposal, while other CMBSs that are not specifically included within the definition of "CMO" are not within scope.[59]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[60] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[61] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

On numerous occasions, the Commission has stated that price transparency plays a fundamental role in promoting the fairness and efficiency of U.S. capital markets.[62] The Commission believes that, to further the goal of increasing price transparency in the debt markets in general and the CMO market in particular, it is reasonable and consistent with the Act for FINRA to extend post-trade price transparency to CMO transactions in the manner set forth in the proposal. FINRA will effect immediate trade-by-trade dissemination of CMO transactions with a transaction value under $1 million and issue periodic aggregate reports of transactions in a particular CMO security having a transaction value of $1 million or more and meeting thresholds for trading frequency and the number of members reporting transactions in that particular security. FINRA has not proposed either immediate trade-by-trade dissemination or periodic aggregate dissemination of CMO transactions with a transaction value of $1 million or more that do not meet those thresholds. The Commission acknowledges that this proposal thereby tailors public dissemination only to a segment of the CMO market in which there are smaller transactions or activity among a wider number of market participants. The Commission notes one commenter's concern that price levels for smaller transactions in a particular CMO security may be less representative of subsequent trading levels for that security [63] and another commenter's concern that restricting immediate trade-by-trade public dissemination to only the smallest trades could impair market liquidity in that segment of the market.[64] Nevertheless, the Commission believes that the proposal represents a reasonable first step to introduce post-trade transparency to this asset class, and in approving this proposal notes FINRA's representation that it "will continue to monitor the market and assess the need for additional transparency." [65]

The Commission believes that the proposed reduction in reporting times for CMO transactions executed on or after issuance appears reasonably designed to contribute to enhanced price transparency for CMOs. Additionally, the Commission believes that the proposed revision to the reporting period for CMO transactions executed prior to issuance will provide greater clarity to market participants and help promote compliance with applicable reporting rules.

Furthermore, the Commission believes that including CMO transaction data in the various TRACE data sets is reasonable and consistent with the Act. The rules that establish these data sets have been approved by the

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[49] *See* ICE Letter at 5.

[50] *See* FINRA Response Letter at 4.

[51] BDA Letter at 1. Under a previous version of the proposal, FINRA had considered reducing the reporting timeframe to 15 minutes. *See* Notice, 81 FR at 44071.

[52] *See* SIFMA Letter at 3.

[53] *Id.*

[54] FINRA Response Letter at 3–4.

[55] *See id.* at 4.

[56] *See* SIFMA Letter at 3.

[57] BDA Letter at 1.

[58] *See* SIFMA Letter at 2–3.

[59] *See* FINRA Response Letter at 4.

[60] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[61] 15 U.S.C. 78o–3(b)(6).

[62] *See, e.g.,* Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131, 8136 (January 29, 2001) (SR–NASD–99–65) (approving initial TRACE proposal).

[63] *See* ICE Letter at 3–4.

[64] *See* BDA Letter at 2.

[65] FINRA Response Letter at 2.

Commission,[66] and expanding the data sets to include CMO transactions does not appear to raise any issues. Finally, the Commission believes that the proposal's minor, conforming, and technical revisions to FINRA Rule 7730 and the Rule 6700 series are consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[67] that the proposed rule change (SR–FINRA–2016–023) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[68]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23499 Filed 9–28–16; 8:45 am]

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[66] *See* Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (approving SR–FINRA–2012–020); Securities Exchange Act Release No. 68084 (October 23, 2012), 77 FR 65436 (October 26, 2012) (approving SR–FINRA–2012–042); Securities Exchange Act Release No. 70345 (September 6, 2013), 78 FR 56251 (September 12, 2013) (approving SR–FINRA–2013–029); Securities Exchange Act Release No. 71607 (February 24, 2014), 78 FR 11481 (February 28, 2014) (approving SR–FINRA–2013–046).

[67] 15 U.S.C. 78s(b)(2).

[68] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; in the Matter of Accel Brands, Inc.

September 27, 2016.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Accel Brands, Inc. ("Accel Brands") (CIK No. 0001077800) because it has not filed any periodic reports since the period ended March 31, 2015, and the staff of the Securities and Exchange Commission has independently endeavored to determine whether the company is operating and the company has failed to respond to the Commission's inquiry about its operating status. Accel Brands, formerly known as Accelpath, Inc., is a Delaware corporation with its principal place of business listed as National Harbor, Maryland with stock quoted on OTC Link (previously "Pink Sheets") operated by OTC Markets Group, Inc. under the ticker symbol ACLP.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Accel Brands.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Accel Brands is suspended for the period from 9:30 a.m. EDT on September 27, 2016, through 11:59 p.m. EDT on October 10, 2016.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2016–23696 Filed 9–27–16; 4:15 pm]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Wednesday, September 28, 2016 at 11:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session, and determined that Commission business required consideration earlier than one week from today. No earlier notice of this Meeting was practicable.

The subject matter of the closed meeting will be:

Institution of injunctive actions; and

Institution and settlement of administrative proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: September 26, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–23697 Filed 9–27–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78914; File No. SR–NYSEMKT–2016–89]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add to the Rules of the Exchange the Tenth Amended and Restated Operating Agreement of the New York Stock Exchange LLC

September 23, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 19, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to add to the rules of the Exchange the Tenth Amended and Restated Operating Agreement of the New York Stock Exchange LLC ("NYSE LLC"). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that the substance of this proposed rule change is identical to the substance of SR–NYSEMKT–2016–088, which was filed on September 12, 2016, and was withdrawn on September 19, 2016.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add to the rules of the Exchange the Tenth Amended and Restated Operating Agreement of NYSE LLC (the "Tenth NYSE Operating Agreement").

In September 2015, the Exchange filed the Eighth Amended and Restated Operating Agreement of NYSE LLC (the "Eighth NYSE Operating Agreement") as a "rule of the exchange" under Section 3(a)(27) of the Act because NYSE LLC has a wholly-owned subsidiary, NYSE Market (DE), Inc., which owns a majority interest in NYSE Amex Options LLC ("NYSE Amex Options"), a facility of the Exchange.[5] The Exchange subsequently removed the obsolete Eighth NYSE Operating Agreement and replaced it with the Ninth Amended and Restated Operating Agreement of NYSE LLC (the "Ninth NYSE Operating Agreement") as a "rule of the exchange" under Section 3(a)(27) of the Act.[6]

On July 22, 2016, NYSE LLC filed to amend the Ninth NYSE Operating Agreement to change the process for nominating non-affiliated directors and replace an obsolete reference to NYSE Market (DE), Inc.[7] On September 9, 2016, NYSE LLC's rule filing amending the Ninth NYSE Operating Agreement was approved.[8]

The Exchange is accordingly filing to remove the obsolete Ninth NYSE Operating Agreement as a "rule of the exchange" under Section 3(a)(27) of the Act, and replace it with the Tenth NYSE Operating Agreement as a "rule of the exchange" under Section 3(a)(27) of the Act.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act[10] in general, and with Section 6(b)(1)[11] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that the proposed rule change would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act because, by removing the obsolete Ninth NYSE Operating Agreement and making the Tenth NYSE Operating Agreement a rule of the Exchange, the Exchange would be ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect.

The Exchange notes that, as with the Ninth NYSE Operating Agreement, it would be required to file any changes to the Tenth NYSE Operating Agreement with the Commission as a proposed rule change.[12] In addition, the Exchange believes that the proposed changes are consistent with and will facilitate an ownership structure of the Exchange's facility NYSE Amex Options that will provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to NYSE Amex Options and its direct and indirect parent entities.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act[13] because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that removing the obsolete Ninth NYSE Operating Agreement and making the Tenth NYSE Operating Agreement a rule of the Exchange will remove impediments to the operation of the Exchange by ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect. The Exchange notes that, as with the Ninth NYSE Operating Agreement, no amendment to the Tenth NYSE Operating Agreement could be made without the Exchange filing a proposed rule change with the Commission. For the same reasons, the proposed rule change is also designed to protect investors as well as the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with ensuring that the Commission will have the ability to enforce the Act with respect to NYSE Amex Options and its direct and indirect parent entities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is appropriate because the Tenth NYSE Operating Agreement will become "rules of an exchange" of NYSE MKT without delay.[16] Based on the foregoing, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest.[17] The Commission hereby grants the waiver and designates the proposal operative upon filing.

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[5] *See* 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 75984 (September 25, 2015), 80 FR 59213, 59214 (October 1, 2015) (SR–NYSEMKT–2015–71).

[6] *See* 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 76637 (December 14, 2015), 80 FR 79124 (December 18, 2015) (SR–NYSEMKT–2015–102).

[7] *See* Securities Exchange Act Release No. 78436 (July 28, 2016), 81 FR 51249 (August 3, 2016) (SR–NYSE–2016–51).

[8] *See* Securities Exchange Act Release No. 78805 (September 9, 2016), 81 FR 63536 (September 15, 2016) (SR–NYSE–2016–51).

[9] *See* 15 U.S.C. 78c(a)(27).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(1).

[12] The Exchange notes that any amendment to the NYSE LLC Operating Agreement would also require that NYSE LLC file a proposed rule change with the Commission.

[13] 15 U.S.C. 78f(b)(5).

[14] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–89. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–89 and should be submitted on or before October 20, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23491 Filed 9–28–16; 8:45 am]

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[16] *See* 15 U.S.C. 78c(a)(27).

[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78916; File No. SR–NYSE–2016–48]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 and Partial Amendment No. 2, Amending Exchange Rule 49 Regarding the Exchange's: (1) Emergency Powers; (2) Disaster Recovery Plans; and (3) Backup Systems and Mandatory Testing

September 23, 2016.

I. Introduction

On July 29, 2016, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 49 to establish a Disaster Recovery Facility and to move the text of Exchange Rule 438 to proposed Exchange Rule 49. On August 1, 2016, the Exchange filed Amendment No. 1 to its proposal.[3] On August 11, 2016, the proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register**.[4] On September 19, 2016, the Exchange filed Partial Amendment No. 2, to its proposal.[5]

The Commission did not receive any comments on the proposal. This order approves the proposal, as modified by Amendment No. 1 and Partial Amendment No. 2.

II. Description of the Proposed Rule Changes, as Modified by Amendment No. 1 and Partial Amendment No. 2

The Exchange proposes to amend Exchange Rule 49 by removing the current text relating to the Exchange's Emergency Powers and replacing it with new text regarding the Exchange's Business Continuity and Disaster Recovery Plan, and by moving the text in Exchange Rule 438 regarding Mandatory Testing to Rule 49.[6] The Exchange also proposes to amend Exchange Rule 51 to govern the circumstances under which the Exchange's CEO may determine to have the Exchange trade securities on its Disaster Recovery Facility.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the proposal in its entirety.

[4] *See* Securities Exchange Act Release No. 78484 (Aug. 5, 2016), 81 FR 53180 (SR–NYSE–2016–48) ("Notice").

[5] Amendment No. 2 partially amended the proposal to add additional text to proposed Exchange Rule 49, specifying that member organizations of the Exchange that are currently required to participate in testing of the Exchange's business continuity and disaster recovery plans under current Exchange Rule 438 and proposed Exchange Rule 49(b)(N) would also be required to test the Exchange's proposed disaster recovery plans. Partial Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nyse-2016-48/nyse201648-2.pdf.* Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

[6] Because the Exchange would not implement amended Exchange Rule 49(a) until after an opportunity to test its procedures with Exchange member organizations, the Exchange proposes to retain current NYSE Rule 49 on its rulebook. The Exchange would delete current Exchange Rule 49 through a separate proposed rule change to establish the operative date of amended Exchange Rule 49(a). In addition to filing the separate proposed rule change, the Exchange will announce via Trader Update the operative date of proposed Rule 49(a).

A. Current NYSE Rule 49

Exchange Rule 49(a) sets forth the Exchange's emergency powers, which grant a qualified Exchange officer the authority to declare an emergency condition with respect to trading on or through the Exchange's systems and facilities of the Exchange, and designates NYSE Arca, Inc. ("NYSE Arca") to perform certain functions on behalf of, and at the direction of, the Exchange in the event of an emergency condition. Exchange Rule 49(a) also describes when an Emergency Condition may be declared and defines the terms "emergency" and "qualified Exchange officer."

Under Exchange Rule 49, once an emergency condition is declared, the Exchange shall halt all trading on its systems and facilities, purge any unexecuted orders as soon as practicable, and prevent those orders from routing to NYSE Arca.[7] Beginning the next trading day following the declaration of an emergency condition, NYSE Arca, on behalf of and at the direction of the Exchange, shall disseminate the official opening, re-opening, and closing trades of Exchange-listed securities to the Consolidated Tape as messages of the Exchange, and also disseminate certain other notifications for Exchange-listed securities to the Consolidated Quotation System as messages of the Exchange.[8] In addition, bids and offers for Exchange-listed securities entered on or through the systems and facilities of NYSE Arca during the emergency condition shall be reported to the Consolidated Quotation System as bids and offers of NYSE Arca, except that the opening quote shall be reported to the Consolidated Quotation System as a bid or offer of both the Exchange and NYSE Arca, and any re-opening quote shall be reported to the Consolidated Quotation System as a bid or offer of the Exchange only.[9]

Members and member organizations of the Exchange who wish to trade Exchange-listed securities during an emergency condition are responsible for having a contingency plan for connecting to NYSE Arca.[10] All trading of Exchange-listed securities during an emergency condition on or through NYSE Arca shall be subject to NYSE Arca Equities Rules.[11] Before declaring an emergency condition, the qualified Exchange officer shall make a reasonable effort to consult with the Commission.[12] An emergency condition may remain in effect for up to 10 calendar days from the date it is invoked.[13] The Exchange has represented that, to date, it has not invoked Exchange Rule 49.[14]

B. Proposed Amendments to Exchange Rules

The Exchange proposes to adopt new business continuity and disaster recovery plans for use on the Disaster Recovery Facility to be maintained by the Exchange. Under the proposed business continuity and disaster recovery plans, if the Exchange trades securities on its Disaster Recovery Facility, then:

1. The 11 Wall Street facilities will not be available for trading.[15]
2. Consistent with the Exchange's business continuity plan, opening and reopening auctions of Exchange-traded securities traded on the Disaster Recovery Facility would be subject to Rule 123D(a)(2)–(6) and closing auctions would be subject to Supplementary Material .10 to Rule 123C.[16]
3. Any unexecuted Exchange-traded securities orders entered into the Exchange's systems prior to commencing trading on the Disaster Recovery Facility would be deemed canceled and would be purged from the Exchange's systems.[17]
4. Member organizations registered as DMMs would not be subject to any DMM obligations or benefits under Exchange rules while securities trade on the Disaster Recovery Facility.[18]

The Disaster Recovery Facility and the revised business continuity and disaster recovery plans would allow the Exchange to no longer designate NYSE Arca as its backup facility but instead operate as a fully electronic exchange on its own facilities under its own trading rules, with its own order book and with quotes and trades publicly reported as quotes and trades of the Exchange, rather than as quotes and trades of NYSE Arca. Member organizations wishing to trade on the Exchange's Disaster Recovery Facility would be responsible for having contingency plans for establishing connectivity to that facility and changing routing instructions for their order entry systems to send bids and offers in Exchange-traded securities to that facility.[19] The proposed rule change would also require member organizations to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.[20]

The Exchange also proposes to delete certain current Rule 49 text that will be rendered obsolete or unnecessary by the proposal. This text includes certain terms, references to NYSE Arca, limits on the operative period for emergency powers, and notifications to the Commission.[21] In addition the Exchange has proposed non-substantive conforming changes to Exchange Rules 49(b)(N), 431, and 438, to update numbering and cross-references.[22] Finally, the Exchange proposes to amend Exchange Rule 51 to govern the circumstances under which the Exchange's Chief Executive Officer ("CEO") may determine to have the Exchange trade securities on its Disaster Recovery Facility.[23]

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[7] *See* Current Exchange Rule 49(b)(1)(A) and (B).

[8] *See* Current Exchange Rule 49(b)(2)(A).

[9] *See* Current Exchange Rule 49(b)(2)(B).

[10] *See* Current Exchange Rule 49(b)(3).

[11] *See* Current Exchange Rule 49(b)(4). However, the Exchange's listing requirements shall remain applicable. *See* Current Exchange Rule 49(b)(4).

[12] *See* Current Exchange Rule 49(c)(1).

[13] *See* Current Exchange Rule 49(c)(2).

[14] *See* Notice, *supra* note 3, at 53182.

[15] *See* Proposed Exchange Rule 49(a)(2)(A). The Exchange states that, because the trading systems in the Exchange's Disaster Recovery Facility would not have connectivity to designated market maker ("DMM") and Floor broker trading systems, the Exchange would operate as a fully electronic exchange when operating out of its Disaster Recovery Facility, even if 11 Wall Street facilities were not impacted.

[16] *See* Proposed Exchange Rule 49(a)(2)(B). The Exchange states that, because there would be no Trading Floor or DMM connectivity, the Exchange would facilitate all openings, reopenings, and closings.

[17] *See* Proposed Exchange Rule 49(a)(2)(C). The Exchange states that the orders would have to be canceled because, depending on the scope of the disruption, the Exchange may be unable to transmit cancellation messages for unexecuted orders.

[18] *See* Proposed Exchange Rule 49(a)(2)(D). *See also* Exchange Rule 103B(I) (quoting requirements for allocation process of listed securities) and Rule 104 (Dealings and Responsibilities of DMMs). According to the Exchange, DMMs would not be subject to any such obligations or benefits because the Exchange would not maintain systems that support DMM quoting at its Disaster Recovery Facility. Therefore, DMMs that route orders to the Disaster Recovery Facility would trade in a manner similar to other market participants that electronically enter orders at the Exchange, and DMMs would be subject to the same fees and credits applicable to non-DMM transactions.

[19] *See* Proposed Exchange Rule 49(a)(3).

[20] *See* Proposed Exchange Rule 49(b)(N).

[21] The Commission notes that, under Regulation SCI, the Exchange would be required to notify the Commission of any "SCI event," such as a systems disruption that caused the Exchange to use its Disaster Recovery Facility. *See* 17 CFR 242.1002(b)(1).

[22] The Exchange proposes to designate this paragraph of proposed Exchange Rule 49(b)(N) with an "N" to distinguish it from current Exchange Rule 49(b), as both would be operative at the same time.

[23] The Exchange proposes to amend Exchange Rule 51(b) to provide the Exchange's CEO with the authority to determine whether to use the Exchange's Disaster Recovery Facility. The Exchange also proposes to make a conforming amendment to Exchange Rule 51(c) to specify that the CEO shall take any of the actions described in Exchange Rule 51(b) only when such action is

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1 and No. 2, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Under amended Exchange Rule 49, the Exchange would maintain its own Disaster Recovery Facility to continue Exchange operations when necessary without substantial disruption to member organizations. This Disaster Recovery Facility would allow the Exchange to no longer designate NYSE Arca as its backup facility but instead operate as a fully electronic exchange on its own facilities, under its own trading rules, with its own order book and with quotes and trades publicly reported under the Exchange's own reporting symbol. The proposed rule change would also require member organizations to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.[26]

Under the proposal, the Exchange CEO would be authorized to make a determination for the Exchange to trade securities on the Disaster Recovery Facility only when the CEO deems such action to be necessary or appropriate for the maintenance of a fair and orderly market, or for the protection of investors or otherwise in the public interest, due to extraordinary circumstances. The Exchange CEO must notify the Exchange board of directors as soon as feasible if the CEO makes a determination to use the Disaster Recovery Facility.

The Commission believes that the proposal is reasonably designed to permit the Exchange to continue to operate in the event of an emergency by using a secondary data center located in a geographically diverse location to open, trade, and close Exchange-listed securities. Accordingly, the Commission believes that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and the Commission therefore finds that the proposed rule change is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSE–2016–48), as modified by Amendments No. 1 and Partial Amendment No. 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23494 Filed 9–28–16; 8:45 am]

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deemed necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors of otherwise in the public interest, due to extraordinary circumstances.

[24] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Proposed Exchange Rule 49(b)(N).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78915; File No. SR–CBOE–2016–067]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Correct Rule 3.6A

September 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 9, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to correct a typographical error in Rule 3.6A.08 related to the Qualification and Registration of Trading Permit Holders and Associated Persons. The text of the proposed rule change is provided below.

(additions are *underlined;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 3.6A. Qualification and Registration of Trading Permit Holders and Associated Persons

(a)–(e) No change.

. . . *Interpretations and Policies:*

.01–.07 No change.

.08 (a) An individual Trading Permit Holder or individual associated person who:

(1) is engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader (TD) in WebCRD;

(2) (i) supervises or monitors proprietary trading, market-making and/or brokerage activities for broker-dealers; (ii) supervises or trains those engaged in proprietary trading, market-making and/or effecting transactions on behalf of a broker-dealer, with respect to those activities; and/or (iii) is an officer, partner or director of a Trading Permit Holder or TPH organization is required to register and qualify as a Securities Trader Principal (TP) in WebCRD and satisfy the prerequisite registration and qualification requirements; and

(3) is a Chief Compliance Officer (or performs similar functions) for a Trading Permit Holder or TPH organization that engages in proprietary trading, market-making or effecting transactions on behalf of a broker-dealer is required to register and qualify as a Securities Trader Compliance Officer (CT) in WebCRD and satisfy the prerequisite registration and qualification requirements.

(b) The following sets forth the qualification requirements for each of the required registration categories described in paragraph (a) to Interpretation and Policy .08:

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

Category of registration	Qualification examination(s)	Alternative acceptable qualifications
Securities Trader (TD)	Series 57.	
Securities Trader Principal (TP) **	Series 24	General Securities Sales Supervisor Registration and General Securities Principal—Sales Supervisor Module Registration (Series 9/10 and Series 23) *
Securities Trader Compliance Officer (CT)	Series 14	General Securities Principal Registration (GP) or Securities Trader Principal (TP) (Series 24)

* Because the Series 23 is not available in WebCRD, each applicant must provide documentation of a valid Series 23 license to the Registration Services Department upon request for the Series 24 registration in WebCRD.

** Securities Trader Principals' (TP) supervisory authority is limited to supervision of the securities trading functions of TPHs, as described in paragraph (a)(2)[(i)] of Interpretation and Policy .08 to Rule 3.6A, and supervision of officers, partners, and directors of a TPH or TPH organization.

.09 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to correct an inadvertent typographical error in Rule 3.6A.08. The Exchange proposes to make the change so the text properly reflects the intention and practice of Rule 3.6A.08. The typographical error is explained below.

On October 9, 2015, the Exchange filed a rule change to replace the Proprietary Trader (PT) registration category and qualification examination (Series 56) with the Securities Trader (TD) registration category and qualification examination (Series 57). As part of that filing, an inadvertent typographical error was made in the sentence that begins with the two asterisks (**) in Interpretation and Policy .08(b). That sentence incorrectly refers to paragraph (a)(2)(i) in Interpretation and Policy .08. The intention was to reference paragraph (a)(2) in its entirety, not just paragraph (a)(2)(i), as the purpose of the reference is to describe the various types of supervisory authority an individual may have that requires the individual to register and qualify as a Securities Trader Principal (TP). The Exchange is now proposing to amend this error to accurately describe the intention and practice of the rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change is consistent with these provisions because it will more accurately describe the intention and practice of the Exchange with respect to registration requirements of Trading Permit Holders. The Exchange believes that having accurate and clear rules is in the best interests of investors and the general public. The proposed rule change is correcting an inadvertent typographical error.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is attempting to correct a typographical error and does not impact the Exchange's existing operations or rules related to registration requirements. The proposed rule change has no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

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[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2016–067. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–067 and should be submitted on or before October 20, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23493 Filed 9–28–16; 8:45 am]

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78918; File No. SR–NASDAQ–2016–104]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change To Amend Nasdaq Rule 5735 To Adopt Generic Listing Standards for Managed Fund Shares

September 23, 2016.

I. Introduction

On August 16, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 5735 to, among other things, adopt generic listing standards for Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on August 24, 2016.[3] The Commission has received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposal

Nasdaq Rule 5735 governs the listing and trading of Managed Fund Shares on the Exchange. Managed Fund Shares are issued by actively managed exchange-traded funds ("ETFs") that do not seek to replicate the performance of a specified index of securities.

Under its current rules, the Exchange must file separate proposals under Section 19(b) of the Act before listing a new series of Managed Fund Shares.[4] The Exchange proposes to adopt "generic" listing standards so that the Exchange may list Managed Fund Shares that satisfy the applicable criteria by submitting notice pursuant to Rule 19b–4(e) under the Act, rather than by filing a proposed rule change under Section 19(b) of the Act.[5]

A. Description of the Generic Listing Standards

The Exchange's listing standards establish requirements for the various types of assets that may be held in the portfolio of a generically listed, actively managed ETF ("Portfolio").

1. Equity Portfolio Components

Nasdaq Rule 5735(b)(1)(A) establishes the criteria applicable to the equity securities included in a Portfolio. Equity securities include the following securities: U.S. Component Stocks, which are defined in Nasdaq Rule 5705; Non-U.S. Component Stocks, which are defined in Nasdaq Rule 5705; Exchange Traded Derivative Securities, which are defined in Nasdaq Rule 5735(c)(6);[6] Linked Securities, which are defined in Nasdaq Rule 5710, and each of the equivalent security types listed on another national securities exchange. Additionally, Nasdaq Rule 5735(b)(1)(A) provides that no more than 25% of the equity weight of the Portfolio can include leveraged or inverse-leveraged Exchange Traded Derivative Securities or Linked Securities and that, to the extent a Portfolio includes convertible securities, the equity securities into which such securities are converted must meet the criteria of Nasdaq Rule 5735(b)(1)(A) after converting.

Nasdaq Rule 5735(b)(1)(A)(i) would require that U.S. Component Stocks (except as mentioned below) meet the following criteria initially and on a continuing basis:

(1) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) that in the aggregate account for at least 90% of the equity weight of the Portfolio (excluding Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum market value of at least $75 million;

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78616 (Aug. 18, 2016), 81 FR 57968 ("Notice").

[4] *See* Nasdaq Rule 5735(b)(1).

[5] *See* 17 CFR 240.19b–4(e). Rule 19b–4(e) permits self-regulatory organizations ("SROs") to list and trade new derivative securities products that comply with existing SRO trading rules, procedures, surveillance programs, and listing standards, without submitting a proposed rule change under Section 19(b). *See* Securities Exchange Act Release No. 40761 (Dec. 8, 1998), 63 FR 70952 (Dec. 22, 1998).

[6] Nasdaq Rule 5735(c)(6) defines "Exchange Traded Derivative Securities" as: "the securities described in Nasdaq Rules 5705(a) (Portfolio Depository Receipts); 5705(b) (Index Fund Shares); 5720 (Trust Issued Receipts); 5711(d) (Commodity-Based Trust Shares); 5711(e) (Currency Trust Shares); 5711(f) (Commodity Index Trust Shares); 5711(g) (Commodity Futures Trust Shares); 5711(h) (Partnership Units); 5711(i) (Trust Units); 5735 (Managed Fund Shares); and 5711(j) (Managed Trust Securities)."

(2) Component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) that in the aggregate account for at least 70% of the equity weight of the Portfolio (excluding Exchange Traded Derivative Securities and Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the previous six months;

(3) The most heavily weighted component stock (excluding Exchange Traded Derivative Securities and Linked Securities) must not exceed 30% of the equity weight of the Portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Exchange Traded Derivative Securities and Linked Securities) must not exceed 65% of the equity weight of the Portfolio;

(4) Where the equity portion of the Portfolio does not include Non-U.S. Component Stocks, the equity portion of the Portfolio shall include a minimum of 13 component stocks; provided, however, that there would be no minimum number of component stocks if (a) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the Portfolio of a series of Managed Fund Shares;

(5) Except as provided in Nasdaq Rule 5735(b)(1)(A)(i), equity securities in the Portfolio must be U.S. Component Stocks listed on a national securities exchange and must be NMS Stocks as defined in Rule 600 of Regulation NMS; and

(6) American Depositary Receipts ("ADRs") may be exchange traded or non-exchange traded, but no more than 10% of the equity weight of the Portfolio shall consist of non-exchange traded ADRs.

Nasdaq Rule 5735(b)(1)(A)(ii) requires that Non-U.S. Component Stocks must meet the following criteria initially and on a continuing basis:

(1) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million;

(2) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months;

(3) The most heavily weighted Non-U.S. Component Stock shall not exceed 25% of the equity weight of the Portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the Portfolio;

(4) Where the equity portion of the Portfolio includes Non-U.S. Component Stocks, the equity portion of the Portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (a) one or more series of Exchange Traded Derivative Securities or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Exchange Traded Derivative Securities or Linked Securities account for 100% of the equity weight of the Portfolio of a series of Managed Fund Shares; and

(5) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

2. Fixed Income Portfolio Components

Nasdaq Rule 5735(b)(1)(B) establishes criteria for fixed income securities that are included in a Portfolio. Fixed income securities are debt securities[7] that are notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities ("Treasury Securities"), government-sponsored entity securities ("GSE Securities"), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper.[8] To the extent that a Portfolio includes convertible securities, the fixed income securities into which such securities are converted shall meet the criteria of Nasdaq Rule 5735(b)(1)(B) after converting.[9]

Under Nasdaq Rule 5735(b)(1)(B), fixed income securities that are part of a Portfolio must satisfy the following criteria initially and on a continuing basis:

(1) Components that in the aggregate account for at least 75% of the fixed income weight of the Portfolio must each have a minimum original principal amount outstanding of $100 million or more;

(2) No component fixed-income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the fixed income weight of the Portfolio, and the five most heavily weighted fixed income securities in the Portfolio (excluding Treasury Securities and GSE Securities) shall not in the aggregate account for more than 65% of the fixed income weight of the Portfolio;

(3) A Portfolio that includes fixed income securities (excluding exempted securities) shall include a minimum of 13 non-affiliated issuers, provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the Portfolio consists of equity securities as described in Nasdaq Rule 5735(b)(1)(A);

(4) Component securities that in aggregate account for at least 90% of the fixed income weight of the Portfolio must be: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers each of which has a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers each of which has outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and

(5) Non-agency, non-GSE, and privately issued mortgage-related and other asset-backed securities shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the Portfolio.

3. Cash and Cash Equivalent Portfolio Components

Nasdaq Rule 5735(b)(1)(C) provides that a Portfolio may include cash and cash equivalents. Cash equivalents are defined as short-term instruments with maturities of less than three months.[10] The Exchange defines short-term instruments to include the following: (1) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements and reverse repurchase agreements; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (6) commercial paper, which are short-term unsecured promissory notes; and (7) money market funds.[11] The Exchange does not propose to limit to the amount of cash or cash equivalents that may be held in a Portfolio.[12]

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[7] Debt securities include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities. Debt securities include investment-grade securities, non-investment-grade securities, and unrated securities. Debt securities also include variable and floating rate securities. *See* Notice, *supra* note 3, 81 FR at 57971, n.29.

[8] *See* Nasdaq Rule 5735(b)(1)(B).

[9] *See id.*

[10] *See* Nasdaq Rule 5735(b)(1)(C).

4. Derivatives in the Portfolio

Nasdaq Rule 5735(b)(1)(D) establishes listing criteria for the portion of a Portfolio that consists of listed derivatives such as futures, options, and swaps overlying commodities, currencies, financial instruments (*e.g.,* stocks, fixed income securities, interest rates, and volatility), or a basket or index of any of the foregoing. The Exchange does not propose to limit the percentage of a Portfolio that may be composed of such holdings, *provided that,* in the aggregate, at least 90% of the weight of holdings in listed derivatives (calculated using the aggregate gross notional value) must, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the ISG from other members or affiliates or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement ("CSSA").[13] Additionally, the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the Portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the Portfolio (including gross notional exposures).[14]

Nasdaq Rule 5735(b)(1)(E) establishes a limit on over-the-counter ("OTC") derivatives: No more than 20% of the weight of the Portfolio may be invested in OTC derivatives.[15] The Exchange notes that, for purposes of calculating this limitation, a Portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

Nasdaq Rule 5735(b)(1)(E) provides that, to the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or fixed income securities, the aggregate gross notional value of such exposure shall meet the criteria set forth in Nasdaq Rules 5735(b)(1)(A) and 5735(b)(1)(B), respectively.

B. Other Aspects of the Proposal

1. Disclosed Portfolio

The daily dissemination of a Disclosed Portfolio[16] is required under current Nasdaq Rule 5735(d)(2)(B)(i), but its contents are not specified. The Exchange proposes to amend the definition of "Disclosed Portfolio" to require that the Web site for each series of Managed Fund Shares listed on the Exchange, including all Managed Fund Shares currently listed and traded on the Exchange, disclose the following information in the Disclosed Portfolio, to the extent applicable: Ticker symbol, CUSIP or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value, and percentage weight of the holding in the portfolio.

2. Investment Objective

The Exchange proposes to add as an initial listing criterion applicable to all Managed Fund Shares (including those that are generically listed) the requirement that Managed Fund Shares have a stated investment objective, which shall be adhered to under "Normal Market Conditions."[17] The Exchange would define "Normal Market Conditions" as circumstances including, but not limited to, the absence of: Trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or systems failure; or *force majeure* type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.[18]

3. Intraday Indicative Value ("IIV")

The Exchange proposes to modify a continued listing criterion for all Managed Fund Shares to require that the IIV be widely disseminated by one or more major market data vendors at least every 15 seconds during its Regular Market Session, as defined in Nasdaq Rule 4120(b),[19] rather than during all times that Managed Fund Shares trade on the Exchange.

C. Additional Representations of the Exchange Applicable to the Listing and Trading of Managed Fund Shares

In support of the proposed rule change, the Exchange represents that:

(1) Managed Fund Shares will conform to the initial and continued listing criteria under Nasdaq Rule 5735.[20]

(2) The Exchange's surveillance procedures are adequate to continue to properly monitor the trading of the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Managed Fund Shares, to monitor trading in the Managed Fund Shares.[21]

(3) Prior to the commencement of trading of a particular series of Managed Fund Shares, the Exchange will inform its Members in an information circular of the special characteristics and risks associated with trading the Managed Fund Shares, including procedures for purchases and redemptions of Managed Fund Shares, suitability requirements under Nasdaq Rules 2090A and 2111A, the risks involved in trading the Managed Fund Shares during the Pre-Market and Post-Market Sessions when an updated IIV will not be calculated or publicly disseminated, information regarding the IIV and Disclosed Portfolio, prospectus delivery requirements, and other trading information. In addition, the information circular will disclose that the Managed Fund Shares are subject to various fees and expenses, as described in the registration statement, and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. Finally, the information circular will disclose that the NAV for the Managed Fund Shares will be calculated

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[11] *See* Nasdaq Rule 5735(b)(1)(C)(ii).

[12] *See* Nasdaq Rule 5735(b)(1)(C)(i).

[13] *See* Nasdaq Rule 5735(b)(1)(D)(i).

[14] *See* Nasdaq Rule 5735(b)(1)(D)(ii).

[15] OTC derivatives include: Forwards, options, and swaps overlying commodities, currencies, financial instruments (*e.g.,* stocks, fixed income securities, interest rates, and volatility), or a basket or index of any of the foregoing. *See* Nasdaq Rule 5735(b)(1)(E).

[16] Nasdaq defines "Disclosed Portfolio" for purposes of its Managed Fund Shares listing rule as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. *See* Nasdaq Rule 5735(c)(2).

[17] *See* Nasdaq Rule 5735(d)(1)(C).

[18] *See* Nasdaq Rule 5735(c)(5).

[19] *See* Nasdaq Rule 5735(d)(2)(A).

[20] *See* Notice, *supra* note 3, 81 FR at 57973.

[21] *See id.*

after 4:00 p.m. Eastern Time each trading day.[22]

(4) The issuer of a series of Managed Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Managed Fund Shares, as provided under the Nasdaq Rule 5600 Series.[23]

(5) On a periodic basis, and no less than annually, the Exchange will review the Managed Fund Shares generically listed and traded on the Exchange under Nasdaq Rule 5735 for compliance with that rule and will provide a report to its Regulatory Oversight Committee presenting the findings of its review.

(6) On a quarterly basis, the Exchange will provide a report to the Commission staff that contains, for each ETF whose shares are generically listed and traded under Nasdaq Rule 5735(b)(1): (a) Symbol and date of listing; (b) the number of active authorized participants ("APs") and a description of any failure by either a fund or an AP to deliver promised baskets of shares, cash, or cash and instruments in connection with creation or redemption orders; and (c) a description of any failure by a fund to comply with Nasdaq Rule 5735.[24]

(7) Prior to listing pursuant to amended Rule 5735(b)(1), an issuer would be required to represent to the Exchange that it will advise the Exchange of any failure by a series of Managed Fund Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If a series of Managed Fund Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq Rule 5800 Series.[25]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to amend Nasdaq Rule 5735 to, among other things, adopt generic listing criteria, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[27] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that Nasdaq's proposal is substantively identical to proposals that the Commission recently approved.[28] Accordingly, for the reasons discussed in the Prior MFS Generics Orders, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[29] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–NASDAQ–2016–104) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23496 Filed 9–28–16; 8:45 am]

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[22] *See id.*

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78f(b)(5).

[28] *See* Securities Exchange Act Release Nos. 78396 (Jul. 22, 2016), 81 FR 49698 (Jul. 28, 2016) (SR–BATS–2015–100); and 78397 (Jul. 22, 2016), 81 FR 49320 (Jul. 27, 2016) (SR–NYSEArca–2015–110). These releases are referred to collectively as the "Prior MFS Generics Orders."

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78917; File No. SR–NYSEMKT–2016–68]

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 and Partial Amendment No. 2, Amending Exchange Rule 49 Regarding the Exchange's: (1) Emergency Powers; (2) Disaster Recovery Plans; and (3) Backup Systems and Mandatory Testing

September 23, 2016.

I. Introduction

On July 29, 2016, NYSE MKT LLC ("NYSE MKT" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 49—Equities ("Rule 49") to establish a Disaster Recovery Facility and to move the text of Exchange Rule 438—Equities ("Rule 438") to proposed Exchange Rule 49. The Exchange further proposes to amend Exchange Rule 0—Equities ("Rule 0") and Rule 431—Equities (Exchange Backup Systems and Mandatory Testing) ("Rule 431") to specify that Exchange Rule 431 would govern Exchange Backup Systems and Mandatory Testing for Exchange ATP Holders only. On August 1, 2016, the Exchange filed Amendment No. 1 to its proposal.[3] On August 11, 2016, the proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register.**[4] On September 19, 2016, the Exchange filed Partial Amendment No. 2, to its proposal.[5]

The Commission did not receive any comments on the proposal. This order approves the proposal, as modified by Amendment No. 1 and Partial Amendment No. 2.

II. Description of the Proposed Rule Changes, as Modified by Amendment No. 1 and Partial Amendment No. 2

The Exchange proposes to amend Exchange Rule 49 by removing the current text relating to the Exchange's Emergency Powers and replacing it with new text regarding the Exchange's Business Continuity and Disaster Recovery Plan, and by moving the text in Exchange Rule 438 regarding Mandatory Testing to Rule 49.[6] The

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the proposal in its entirety.

[4] *See* Securities Exchange Act Release No. 78483 (August 5, 2016), 81 FR 53176 (SR–NYSEMKT–2016–68).

[5] Amendment No. 2 partially amended the proposal to add additional text to proposed Exchange Rule 49, specifying that member organizations of the Exchange that are currently required to participate in testing of the Exchange's business continuity and disaster recovery plans under current Exchange Rule 438 and proposed Exchange Rule 49(b)(N) would also be required to test the Exchange's proposed disaster recovery plans. Partial Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nysemkt-2016-68/nysemkt201668-2.pdf.* Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

[6] Because the Exchange would not implement amended Exchange Rule 49(a) until after an opportunity to test its procedures with Exchange member organizations, the Exchange proposes to retain current NYSE MKT Rule 49 on its rulebook. The Exchange would delete current Exchange Rule

Exchange also proposes to amend Exchange Rule 51—Equities (“Rule 51”) to govern the circumstances under which the Exchange’s CEO may determine to have the Exchange trade securities on its Disaster Recovery Facility.

A. Current NYSE MKT Rule 49

Exchange Rule 49(a) sets forth the Exchange’s emergency powers, which grant a qualified Exchange officer the authority to declare an emergency condition with respect to trading on or through the Exchange’s systems and facilities of the Exchange, and designates NYSE Arca, Inc. (“NYSE Arca”) to perform certain functions on behalf of, and at the direction of, the Exchange in the event of an emergency condition. Exchange Rule 49(a) also describes when an Emergency Condition may be declared and defines the terms “emergency” and “qualified Exchange officer.”

Under Exchange Rule 49, once an emergency condition is declared, the Exchange shall halt all trading on its systems and facilities, purge any unexecuted orders as soon as practicable, and prevent those orders from routing to NYSE Arca.[7] Beginning the next trading day following the declaration of an emergency condition, NYSE Arca, on behalf of and at the direction of the Exchange, shall disseminate the official opening, re-opening, and closing trades of Exchange-listed securities to the Consolidated Tape as messages of the Exchange, and also disseminate certain other notifications for Exchange-listed securities to the Consolidated Quotation System as messages of the Exchange.[8] In addition, bids and offers for Exchange-listed securities entered on or through the systems and facilities of NYSE Arca during the emergency condition shall be reported to the Consolidated Quotation System as bids and offers of NYSE Arca, except that the opening quote shall be reported to the Consolidated Quotation System as a bid or offer of both the Exchange and NYSE Arca, and any re-opening quote shall be reported to the Consolidated Quotation System as a bid or offer of the Exchange only.[9]

Members and member organizations of the Exchange who wish to trade Exchange-listed securities during an emergency condition are responsible for having a contingency plan for connecting to NYSE Arca.[10] All trading of Exchange-listed securities during an emergency condition on or through NYSE Arca shall be subject to NYSE Arca Equities Rules.[11] Before declaring an emergency condition, the qualified Exchange officer shall make a reasonable effort to consult with the Commission.[12] An emergency condition may remain in effect for up to 10 calendar days from the date it is invoked.[13] The Exchange has represented that, to date, it has not invoked Exchange Rule 49.[14]

B. Proposed Amendments to Exchange Rules

The Exchange proposes to adopt new business continuity and disaster recovery plans for use on the Disaster Recovery Facility to be maintained by the Exchange. Under the proposed business continuity and disaster recovery plans, if the Exchange trades securities on its Disaster Recovery Facility, then:

1. The 11 Wall Street facilities will not be available for trading.[15]
2. Consistent with the Exchange’s business continuity plan, opening and reopening auctions of Exchange-traded securities traded on the Disaster Recovery Facility would be subject to Rule 123D(a)(2)–(6)—Equities and closing auctions would be subject to Supplementary Material .10 to Rule 123C—Equities.[16]
3. Any unexecuted Exchange-traded securities orders entered into the Exchange’s systems prior to commencing trading on the Disaster Recovery Facility would be deemed canceled and would be purged from the Exchange’s systems.[17]
4. Member organizations registered as DMMs would not be subject to any DMM obligations or benefits under Exchange rules while securities trade on the Disaster Recovery Facility.[18]

The Disaster Recovery Facility and the revised business continuity and disaster recovery plans would allow the Exchange to no longer designate NYSE Arca as its backup facility but instead operate as a fully electronic exchange on its own facilities under its own trading rules, with its own order book and with quotes and trades publicly reported as quotes and trades of the Exchange, rather than as quotes and trades of NYSE Arca. Member organizations wishing to trade on the Exchange’s Disaster Recovery Facility would be responsible for having contingency plans for establishing connectivity to that facility and changing routing instructions for their order entry systems to send bids and offers in Exchange-traded securities to that facility.[19] The proposed rule change would also require member organizations to participate in scheduled functional and performance testing of the Exchange’s business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.[20]

The Exchange also proposes to delete certain current Rule 49 text that will be rendered obsolete or unnecessary by the proposal. This text includes certain terms, references to NYSE Arca, limits on the operative period for emergency powers, and notifications to the Commission.[21] In addition the Exchange has proposed non-substantive conforming changes to Exchange Rules 49(b)(N), 431, and 438, to update numbering and cross-references.[22] The Exchange also proposes to amend Exchange Rule 51 to govern the

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49 through a separate proposed rule change to establish the operative date of amended Exchange Rule 49(a). In addition to filing the separate proposed rule change, the Exchange will announce via Trader Update the operative date of proposed Rule 49(a).

[7] *See* Current Exchange Rule 49(b)(1)(A) and (B).

[8] *See* Current Exchange Rule 49(b)(2)(A).

[9] *See* Current Exchange Rule 49(b)(2)(B).

[10] *See* Current Exchange Rule 49(b)(3).

[11] *See* Current Exchange Rule 49(b)(4). However, the Exchange’s listing requirements shall remain applicable. *See* Current Exchange Rule 49(b)(4).

[12] *See* Current Exchange Rule 49(c)(1).

[13] *See* Current Exchange Rule 49(c)(2).

[14] *See* Notice, *supra* note 3, at 53177.

[15] *See* Proposed Exchange Rule 49(a)(2)(A). The Exchange states that, because the trading systems in the Exchange’s Disaster Recovery Facility would not have connectivity to designated market maker (“DMM”) and Floor broker trading systems, the Exchange would operate as a fully electronic exchange when operating out of its Disaster Recovery Facility, even if 11 Wall Street facilities were not impacted.

[16] *See* Proposed Exchange Rule 49(a)(2)(B). The Exchange states that, because there would be no Trading Floor or DMM connectivity, the Exchange would facilitate all openings, reopenings, and closings.

[17] *See* Proposed Exchange Rule 49(a)(2)(C). The Exchange states that the orders would have to be canceled because, depending on the scope of the disruption, the Exchange may be unable to transmit cancellation messages for unexecuted orders.

[18] *See* Proposed Exchange Rule 49(a)(2)(D). *See also* Exchange Rule 103B(I)—Equities (quoting requirements for allocation process of listed securities) and Rule 104—Equities (Dealings and Responsibilities of DMMs). According to the Exchange, DMMs would not be subject to any such obligations or benefits because the Exchange would not maintain systems that support DMM quoting at its Disaster Recovery Facility. Therefore, DMMs that route orders to the Disaster Recovery Facility would trade in a manner similar to other market participants that electronically enter orders at the Exchange, and DMMs would be subject to the same fees and credits applicable to non-DMM transactions.

[19] *See* Proposed Exchange Rule 49(a)(3).

[20] *See* Proposed Exchange Rule 49(b)(N).

[21] The Commission notes that, under Regulation SCI, the Exchange would be required to notify the Commission of any “SCI event,” such as a systems disruption that caused the Exchange to use its Disaster Recovery Facility. *See* 17 CFR 242.1002(b)(1).

[22] The Exchange proposes to designate this paragraph of proposed Exchange Rule 49(b)(N) with an “N” to distinguish it from current Exchange Rule 49(b), as both would be operative at the same time.

circumstances under which the Exchange's Chief Executive Officer ("CEO") may determine to have the Exchange trade securities on its Disaster Recovery Facility.[23] Finally, the Exchange proposes to amend Rule 431 to delete references to the terms "member," "member organization," and "designated market maker" and use the term "ATP Holder" because Rule 431 would pertain only to options trading. Additionally the Exchange proposes to amend Rule 0 to remove the reference to Rule 431 as being applicable to equities trading.

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1 and No. 2, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Under amended Exchange Rule 49, the Exchange would maintain its own Disaster Recovery Facility to continue Exchange operations when necessary without substantial disruption to member organizations. This Disaster Recovery Facility would allow the Exchange to no longer designate NYSE Arca as its backup facility but instead operate as a fully electronic exchange on its own facilities, under its own trading rules, with its own order book and with quotes and trades publicly reported under the Exchange's own reporting symbol. The proposed rule change would also require member organizations to participate in scheduled functional and performance testing of the Exchange's business continuity and disaster recovery plans in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.[26]

Under the proposal, the Exchange CEO would be authorized to make a determination for the Exchange to trade securities on the Disaster Recovery Facility only when the CEO deems such action to be necessary or appropriate for the maintenance of a fair and orderly market, or for the protection of investors or otherwise in the public interest, due to extraordinary circumstances. The Exchange CEO must notify the Exchange board of directors as soon as feasible if the CEO makes a determination to use the Disaster Recovery Facility.

The Commission believes that the proposal is reasonably designed to permit the Exchange to continue to operate in the event of an emergency by using a secondary data center located in a geographically diverse location to open, trade, and close Exchange-listed securities. Accordingly, the Commission believes that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and the Commission therefore finds that the proposed rule change is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSEMKT–2016–68), as modified by Amendments No. 1 and Partial Amendment No. 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23495 Filed 9–28–16; 8:45 am]

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[23] The Exchange proposes to amend Exchange Rule 51(b) to provide the Exchange's CEO with the authority to determine whether to use the Exchange's Disaster Recovery Facility. The Exchange also proposes to make a conforming amendment to Exchange Rule 51(c) to specify that the CEO shall take any of the actions described in Exchange Rule 51(b) only when such action is deemed necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors of otherwise in the public interest, due to extraordinary circumstances.

[24] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Proposed Exchange Rule 49(b)(N).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78920; File No. SR–ISE–2016–21]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Rule To Prohibit Disruptive Quoting and Trading Activity and Allow the Exchange To Take Prompt Action

September 23, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 15, 2016, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt a new rule to clearly prohibit disruptive quoting and trading activity on the Exchange, as further described below. Further the Exchange proposes to amend Exchange Rules to permit the Exchange to take prompt action to suspend Members or their clients that violate such rule.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal to adopt a new rule to clearly prohibit disruptive quoting and trading activity on the Exchange and to amend Exchange Rules to permit the Exchange to take prompt action to suspend Members or their clients that violate such rule.

Background

As a national securities exchange registered pursuant to Section 6 of the Act, the Exchange is required to be organized and to have the capacity to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the Exchange's Rules. Further, the Exchange's Rules are required to be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade . . . and, in general, to protect investors and the public interest."[3] In fulfilling these requirements, the Exchange has developed a comprehensive regulatory program that includes automated surveillance of trading activity that is both operated directly by Exchange staff and by staff of the Financial Industry Regulatory Authority ("FINRA") pursuant to a Regulatory Services Agreement ("RSA"). When disruptive and potentially manipulative or improper quoting and trading activity is identified, the Exchange or FINRA (acting as an agent of the Exchange) conducts an investigation into the activity, requesting additional information from the Member or Members involved. To the extent violations of the Act, the rules and regulations thereunder, or Exchange Rules have been identified and confirmed, the Exchange or FINRA as its agent will commence the enforcement process, which might result in, among other things, a censure, a requirement to take certain remedial actions, one or more restrictions on future business activities, a monetary fine, or even a temporary or permanent ban from the securities industry.

The process described above, from the identification of disruptive and potentially manipulative or improper quoting and trading activity to a final resolution of the matter, can often take several years. The Exchange believes that this time period is generally necessary and appropriate to afford the subject Member adequate due process, particularly in complex cases. However, as described below, the Exchange believes that there are certain obvious and uncomplicated cases of disruptive and manipulative behavior or cases where the potential harm to investors is so large that the Exchange should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange.

In recent years, several cases have been brought and resolved by the Exchange and other SROs that involved allegations of wide-spread market manipulation, much of which was ultimately being conducted by foreign persons and entities using relatively rudimentary technology to access the markets and over which the Exchange and other SROs had no direct jurisdiction. In each case, the conduct involved a pattern of disruptive quoting and trading activity indicative of manipulative layering[4] or spoofing.[5] The Exchange and other SROs were able to identify the disruptive quoting and trading activity in real-time or near real-time; nonetheless, in accordance with Exchange Rules and the Act, the Members responsible for such conduct or responsible for their customers' conduct were allowed to continue the disruptive quoting and trading activity on the Exchange and other exchanges during the entirety of the subsequent lengthy investigation and enforcement process. The Exchange believes that it should have the authority to initiate an expedited suspension proceeding in order to stop the behavior from continuing on the Exchange if a Member is engaging in or facilitating disruptive quoting and trading activity and the Member has received sufficient notice with an opportunity to respond, but such activity has not ceased.

The following two examples are instructive on the Exchange's rationale for the proposed rule change.

In July 2012, Biremis Corp. (formerly Swift Trade Securities USA, Inc.) (the "Firm") and its CEO were barred from the industry for, among other things, supervisory violations related to a failure by the Firm to detect and prevent disruptive and allegedly manipulative trading activities, including layering, short sale violations, and anti-money laundering violations.[6] The Firm's sole business was to provide trade execution services via a proprietary day trading platform and order management system to day traders located in foreign jurisdictions. Thus, the disruptive and allegedly manipulative trading activity introduced by the Firm to U.S. markets originated directly or indirectly from foreign clients of the Firm. The pattern of disruptive and allegedly manipulative quoting and trading activity was widespread across multiple exchanges, and the Exchange, FINRA, and other SROs identified clear patterns of the behavior in 2007 and 2008. Although the Firm and its principals were on notice of the disruptive and allegedly manipulative quoting and trading activity that was occurring, the Firm took little to no action to attempt to supervise or prevent such quoting and trading activity until at least 2009. Even when it put some controls in place, they were deficient and the pattern of disruptive and allegedly manipulative trading activity continued to occur. As noted above, the final resolution of the enforcement action to bar the Firm and its CEO from the industry was not concluded until 2012, four years after the disruptive and allegedly manipulative trading activity was first identified.

In September of 2012, Hold Brothers On-Line Investment Services, Inc. (the "Firm") settled a regulatory action in connection with the Firm's provision of a trading platform, trade software and trade execution, support and clearing services for day traders.[7] Many traders using the Firm's services were located in foreign jurisdictions. The Firm ultimately settled the action with FINRA and several exchanges, including the Exchange, for a total monetary fine of $3.4 million. In a separate action, the Firm settled with the Commission for a monetary fine of $2.5 million.[8] Among the alleged violations in the case were disruptive and allegedly manipulative quoting and trading activity, including spoofing, layering, wash trading, and pre-arranged trading. Through its conduct and insufficient procedures and controls, the Firm also allegedly committed anti-money laundering violations by failing to detect and report manipulative and suspicious trading activity. The Firm was alleged to have not only provided foreign traders with access to the U.S. markets to engage in such activities, but that its principals also owned and funded foreign subsidiaries that engaged in the disruptive and allegedly manipulative quoting and trading activity. Although the pattern of disruptive and allegedly manipulative quoting and trading activity was identified in 2009, as noted above, the enforcement action was not concluded until 2012. Thus, although disruptive and allegedly manipulative quoting and trading was promptly detected, it continued for several years.

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[3] 15 U.S.C. 78f(b)(1).

[4] "Layering" is a form of market manipulation in which multiple, non-bona fide limit orders are entered on one side of the market at various price levels in order to create the appearance of a change in the levels of supply and demand, thereby artificially moving the price of the security. An order is then executed on the opposite side of the market at the artificially created price, and the non-bona fide orders are cancelled.

[5] "Spoofing" is a form of market manipulation that involves the market manipulator placing non-bona fide orders that are intended to trigger some type of market movement and/or response from other market participants, from which the market manipulator might benefit by trading bona fide orders.

[6] *See Biremis Corp. and Peter Beck*, FINRA Letter of Acceptance, Waiver and Consent No. 2010021162202, July 30, 2012.

[7] *See Hold Brothers On-Line Investment Services, LLC*, FINRA Letter of Acceptance, Waiver and Consent No. 20100237710001, September 25, 2012.

[8] *In the Matter of Hold Brothers On-Line Investment Services, LLC*, Exchange Act Release No. 67924, September 25, 2012.

The Exchange also notes the current criminal proceedings that have commenced against Navinder Singh Sarao. Mr. Sarao's allegedly manipulative trading activity, which included forms of layering and spoofing in the futures markets, has been linked as a contributing factor to the "Flash Crash" of 2010, and yet continued through 2015.

The Exchange believes that the activities described in the cases above provide justification for the proposed rule change, which is described below. In addition, while the examples provided are related to the equities market, the Exchange believes that this type of conduct should be prohibited for options as well. The Exchange believes that these patterns of disruptive and allegedly manipulative quoting and trading activity need to be addressed and the product should not limit the action taken by the Exchange.

Rule 1616—Expedited Client Suspension Proceeding

The Exchange proposes to adopt new Rule 1616, titled "Expedited Client Suspension Proceeding," to set forth procedures for issuing suspension orders, immediately prohibiting a Member from conducting continued disruptive quoting and trading activity on the Exchange. Importantly, these procedures would also provide the Exchange the authority to order a Member to cease and desist from providing access to the Exchange to a client of the Member that is conducting disruptive quoting and trading activity in violation of proposed Rule 403, which is currently reserved. New Rule 403 would be titled, "Disruptive Quoting and Trading Activity Prohibited." Under proposed paragraph (a) of Rule 1616, with the prior written authorization of the Chief Regulatory Officer ("CRO") or such other senior officers as the CRO may designate, the Office of General Counsel or Regulatory Department of the Exchange (such departments generally referred to as the "Exchange" for purposes of proposed Rule 1616) may initiate an expedited suspension proceeding with respect to alleged violations of Rule 403, which is proposed as part of this filing and described in detail below. Proposed paragraph (a) would also set forth the requirements for notice and service of such notice pursuant to the Rule, including the required method of service and the content of notice.

Proposed paragraph (b) of Rule 1616 would govern the appointment of a Hearing Panel as well as potential disqualification or recusal of Hearing Officers. The proposed provision is consistent with existing Exchange Rule 1606(a). The proposed rule provides for a Hearing Officer to be recused in the event he or she has a conflict of interest or bias or other circumstances exist where his or her fairness might reasonably be questioned in accordance with Rules 1616(b)(2). In addition to recusal initiated by such a Hearing Officer, a party to the proceeding will be permitted to file a motion to disqualify a Hearing Officer. However, due to the compressed schedule pursuant to which the process would operate under Rule 1616, the proposed rule would require such motion to be filed no later than 5 days after the announcement of the Hearing Panel and the Exchange's brief in opposition to such motion would be required to be filed no later than 5 days after service thereof. Pursuant to existing Rule 1606(a)(3), any time a person serving on a Panel has a conflict of interest or bias or circumstances otherwise exist where his fairness might be reasonably questioned, the person must withdraw from the Panel. The applicable Hearing Officer shall remove himself or herself and the Panel Chairman may request the Chairman of the Business Conduct Committee select a replacement such that the Hearing Panel still meets the compositional requirements described in Rule 1616(a).

Under paragraph (c) of the proposed Rule, the hearing would be held not later than 15 days after service of the notice initiating the suspension proceeding, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. In the event of a recusal or disqualification of a Hearing Officer, the hearing shall be held not later than five days after a replacement Hearing Officer is appointed. Proposed paragraph (c) would also govern how the hearing is conducted, including the authority of Hearing Officers, witnesses, additional information that may be required by the Hearing Panel, the requirement that a transcript of the proceeding be created and details related to such transcript, and details regarding the creation and maintenance of the record of the proceeding. Proposed paragraph (c) would also state that if a Respondent fails to appear at a hearing for which it has notice, the allegations in the notice and accompanying declaration may be deemed admitted, and the Hearing Panel may issue a suspension order without further proceedings. Finally, as proposed, if the Exchange fails to appear at a hearing for which it has notice, the Hearing Panel may order that the suspension proceeding be dismissed.

Under paragraph (d) of the proposed Rule, the Hearing Panel would be required to issue a written decision stating whether a suspension order would be imposed. The Hearing Panel would be required to issue the decision not later than 10 days after receipt of the hearing transcript, unless otherwise extended by the Chairman of the Hearing Panel with the consent of the Parties for good cause shown. The Rule would state that a suspension order shall be imposed if the Hearing Panel finds by a preponderance of the evidence that the alleged violation specified in the notice has occurred and that the violative conduct or continuation thereof is likely to result in significant market disruption or other significant harm to investors.

Proposed paragraph (d) would also describe the content, scope and form of a suspension order. As proposed, a suspension order shall be limited to ordering a Respondent to cease and desist from violating proposed Rule 403 and/or to ordering a Respondent to cease and desist from providing access to the Exchange to a client of Respondent that is causing violations of Rule 403. Under the proposed rule, a suspension order shall also set forth the alleged violation and the significant market disruption or other significant harm to investors that is likely to result without the issuance of an order. The order shall describe in reasonable detail the act or acts the Respondent is to take or refrain from taking, and suspend such Respondent unless and until such action is taken or refrained from. Finally, the order shall include the date and hour of its issuance. As proposed, a suspension order would remain effective and enforceable unless modified, set aside, limited, or revoked pursuant to proposed paragraph (e), as described below. Finally, paragraph (d) would require service of the Hearing

Panel's decision and any suspension order consistent with other portions of the proposed rule related to service.

Proposed paragraph (e) of Rule 1616 would state that at any time after the Hearing Officers served the Respondent with a suspension order, a Party could apply to the Hearing Panel to have the order modified, set aside, limited, or revoked. If any part of a suspension order is modified, set aside, limited, or revoked, proposed paragraph (e) of Rule 1616 provides the Hearing Panel discretion to leave the cease and desist part of the order in place. For example, if a suspension order suspends Respondent unless and until Respondent ceases and desists providing access to the Exchange to a client of Respondent, and after the order is entered the Respondent complies, the Hearing Panel is permitted to modify the order to lift the suspension portion of the order while keeping in place the cease and desist portion of the order. With its broad modification powers, the Hearing Panel also maintains the discretion to impose conditions upon the removal of a suspension—for example, the Hearing Panel could modify an order to lift the suspension portion of the order in the event a Respondent complies with the cease and desist portion of the order but additionally order that the suspension will be re-imposed if Respondent violates the cease and desist provisions modified order in the future. The Hearing Panel generally would be required to respond to the request in writing within 10 days after receipt of the request. An application to modify, set aside, limit or revoke a suspension order would not stay the effectiveness of the suspension order.

Finally, proposed paragraph (f) would provide that sanctions issued under the proposed Rule 1616 would constitute final and immediately effective disciplinary sanctions imposed by the Exchange, and that the right to have any action under the Rule reviewed by the Commission would be governed by Section 19 of the Act. The filing of an application for review would not stay the effectiveness of a suspension order unless the Commission otherwise ordered.

Rule 403—Disruptive Quoting and Trading Activity Prohibited

The Exchange currently has authority to prohibit and take action against manipulative trading activity, including disruptive quoting and trading activity, pursuant to its general market manipulation rules, including Rules 400 and 405. The Exchange proposes to adopt new Rule 403, which would more specifically define and prohibit disruptive quoting and trading activity on the Exchange. As noted above, the Exchange proposes to apply the proposed suspension rules to proposed Rule 403.

Proposed Rule 403 would prohibit Members from engaging in or facilitating disruptive quoting and trading activity on the Exchange, as described in proposed Rule 403(a)(i) and (ii), including acting in concert with other persons to effect such activity. The Exchange believes that it is necessary to extend the prohibition to situations when persons are acting in concert to avoid a potential loophole where disruptive quoting and trading activity is simply split between several brokers or customers. The Exchange believes, that with respect to persons acting in concert perpetrating an abusive scheme, it is important that the Exchange have authority to act against the parties perpetrating the abusive scheme, whether it is one person or multiple persons.

To provide proper context for the situations in which the Exchange proposes to utilize its proposed authority, the Exchange believes it is necessary to describe the types of disruptive quoting and trading activity that would cause the Exchange to use its authority. Accordingly, the Exchange proposes to adopt Rule 403(a)(i) and (ii) providing additional details regarding disruptive quoting and trading activity. Proposed Rule 403(a)(i)(a) describes disruptive quoting and trading activity containing many of the elements indicative of layering. It would describe disruptive quoting and trading activity as a frequent pattern in which the following facts are present: (i) A party enters multiple limit orders on one side of the market at various price levels (the "Displayed Orders"); and (ii) following the entry of the Displayed Orders, the level of supply and demand for the security changes; and (iii) the party enters one or more orders on the opposite side of the market of the Displayed Orders (the "Contra-Side Orders") that are subsequently executed; and (iv) following the execution of the Contra-Side Orders, the party cancels the Displayed Orders.

Proposed Rule 403(a)(i)(b) describes disruptive quoting and trading activity containing many of the elements indicative of spoofing and would describe disruptive quoting and trading activity as a frequent pattern in which the following facts are present: (i) A party narrows the spread for a security by placing an order inside the national best bid or offer; and (ii) the party then submits an order on the opposite side of the market that executes against another market participant that joined the new inside market established by the order described in proposed 403(a)(i)(b)(i) that narrowed the spread. The Exchange believes that the proposed descriptions of disruptive quoting and trading activity articulated in the rule are consistent with the activities that have been identified and described in the client access cases described above. The Exchange further believes that the proposed descriptions will provide Members with clear descriptions of disruptive quoting and trading activity that will help them to avoid engaging in such activities or allowing their clients to engage in such activities.

The Exchange proposes to make clear in proposed Rule 403(a)(ii), unless otherwise indicated, the descriptions of disruptive quoting and trading activity do not require the facts to occur in a specific order in order for the rule to apply. For instance, with respect to the pattern defined in proposed Rule 403(a)(i)(a) it is of no consequence whether a party first enters Displayed Orders and then Contra-side Orders or vice-versa. However, as proposed, it is required for supply and demand to change following the entry of the Displayed Orders. The Exchange also proposes to make clear that disruptive quoting and trading activity includes a pattern or practice in which some portion of the disruptive quoting and trading activity is conducted on the Exchange and the other portions of the disruptive quoting and trading activity are conducted on one or more other exchanges. The Exchange believes that this authority is necessary to address market participants who would otherwise seek to avoid the prohibitions of the proposed Rule by spreading their activity amongst various execution venues. In sum, proposed Rule 403 coupled with proposed Rule 1616 would provide the Exchange with authority to promptly act to prevent disruptive quoting and trading activity from continuing on the Exchange.

Below is an example of how the proposed rule would operate.

Assume that through its surveillance program, Exchange staff identifies a pattern of potentially disruptive quoting and trading activity. After an initial investigation the Exchange would then contact the Member responsible for the orders that caused the activity to request an explanation of the activity as well as any additional relevant information, including the source of the activity. If the Exchange were to continue to see the same pattern from the same Member and the source of the activity is the same or has been previously identified as a frequent source of disruptive quoting and trading activity then the Exchange could initiate an expedited suspension proceeding by serving notice on the Member that would include details regarding the alleged violations as well as the proposed sanction. In such a case the proposed sanction would likely be to order the Member to cease and desist providing access to the Exchange to the client that is responsible for the disruptive quoting and trading activity and to suspend such Member unless and until such action is taken.

The Member would have the opportunity to be heard in front of a Hearing Panel at a hearing to be conducted within 15 days of the notice. If the Hearing Panel determined that the violation alleged in the notice did not occur or that the conduct or its continuation would not have the potential to result in significant market disruption or other significant harm to investors, then the Hearing Panel would dismiss the suspension order proceeding.

If the Hearing Panel determined that the violation alleged in the notice did occur and that the conduct or its continuation is likely to result in significant market disruption or other significant harm to investors, then the Hearing Panel would issue the order including the proposed sanction, ordering the Member to cease providing access to the client at issue and suspending such Member unless and until such action is taken. If such Member wished for the suspension to be lifted because the client ultimately responsible for the activity no longer would be provided access to the Exchange, then such Member could apply to the Hearing Panel to have the order modified, set aside, limited or revoked. The Exchange notes that the issuance of a suspension order would not alter the Exchange's ability to further investigate the matter and/or later sanction the Member pursuant to the Exchange's standard disciplinary process for supervisory violations or other violations of Exchange rules or the Act.

The Exchange reiterates that it already has broad authority to take action against a Member in the event that such Member is engaging in or facilitating disruptive or manipulative trading activity on the Exchange. For the reasons described above, and in light of recent cases like the client access cases described above, as well as other cases currently under investigation, the Exchange believes that it is equally important for the Exchange to have the authority to promptly initiate expedited suspension proceedings against any Member who has demonstrated a clear pattern or practice of disruptive quoting and trading activity, as described above, and to take action including ordering such Member to terminate access to the Exchange to one or more of such Member's clients if such clients are responsible for the activity.

The Exchange recognizes that its proposed authority to issue a suspension order is a powerful measure that should be used very cautiously. Consequently, the proposed rules have been designed to ensure that the proceedings are used to address only the most clear and serious types of disruptive quoting and trading activity and that the interests of Respondents are protected. For example, to ensure that proceedings are used appropriately and that the decision to initiate a proceeding is made only at the highest staff levels, the proposed rules require the CRO or another senior officer of the Exchange to issue written authorization before the Exchange can institute an expedited suspension proceeding. In addition, the rule by its terms is limited to violations of Rules 403, when necessary to protect investors, other Members and the Exchange. The Exchange will initiate disciplinary action for violations of Rule 403, pursuant to Rule 1616. Further, the Exchange believes that the proposed expedited suspension provisions described above that provide the opportunity to respond as well as a Hearing Panel determination prior to taking action will ensure that the Exchange would not utilize its authority in the absence of a clear pattern or practice of disruptive quoting and trading activity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Pursuant to the proposal, the Exchange will have a mechanism to promptly initiate expedited suspension proceedings in the event the Exchange believes that it has sufficient proof that a violation of Rule 403 has occurred and is ongoing.

Further, the Exchange believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[11] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of the Commission and Exchange rules. The Exchange also believes that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act because the proposal helps to strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where awaiting the conclusion of a full disciplinary proceeding is unsuitable in view of the potential harm to other Members and their customers. Also, the Exchange notes that if this type of conduct is allowed to continue on the Exchange, the Exchange's reputation could be harmed because it may appear to the public that the Exchange is not acting to address the behavior. The expedited process would enable the Exchange to address the behavior with greater speed.

As explained above, the Exchange notes that it has defined the prohibited disruptive quoting and trading activity by modifying the traditional definitions of layering and spoofing[12] to eliminate an express intent element that would not be proven on an expedited basis and would instead require a thorough investigation into the activity. As noted throughout this filing, the Exchange believes it is necessary for the protection of investors to make such modifications in order to adopt an expedited process rather than allowing disruptive quoting and trading activity to occur for several years.

Through this proposal, the Exchange does not intend to modify the definitions of spoofing and layering that have generally been used by the Exchange and other regulators in connection with actions like those cited above. The Exchange believes that the pattern of disruptive and allegedly manipulative quoting and trading activity was widespread across multiple exchanges, and the Exchange, FINRA, and other SROs identified clear patterns of the behavior in 2007 and 2008 in the equities markets.[13] The Exchange believes that this proposal will provide the Exchange with the necessary means to enforce against such behavior in an expedited manner while providing

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[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[12] *See supra,* notes 4 and 5.

[13] *See* Section 3 herein, the Purpose section, for examples of conduct referred to herein.

Members with the necessary due process. The Exchange believes that its proposal is consistent with the Act because it provides the Exchange with the ability to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest from such ongoing behavior.

Further, the Exchange believes that adopting a rule applicable to Options Participants is consistent with the Act because the Exchange believes that this type of behavior should be prohibited for all Members. The type of product should not be the determining factor, rather the behavior which challenges the market structure is the primary concern for the Exchange. While this behavior may not be as prevalent on the options market today, the Exchange does not believe that the possibility of such behavior in the future would not have the same market impact and thereby warrant an expedited process.

The Exchange further believes that the proposal is consistent with Section 6(b)(7) of the Act,[14] which requires that the rules of an exchange "provide a fair procedure for the disciplining of members and persons associated with members . . . and the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange or a member thereof." Finally, the Exchange also believes the proposal is consistent with Sections 6(d)(1) and 6(d)(2) of the Act,[15] which require that the rules of an exchange with respect to a disciplinary proceeding or proceeding that would limit or prohibit access to or membership in the exchange require the exchange to: Provide adequate and specific notice of the charges brought against a member or person associated with a member, provide an opportunity to defend against such charges, keep a record, and provide details regarding the findings and applicable sanctions in the event a determination to impose a disciplinary sanction is made. The Exchange believes that each of these requirements is addressed by the notice and due process provisions included within Rule 1616. Importantly, as noted above, the Exchange will use the authority only in clear and egregious cases when necessary to protect investors, other Members and the Exchange, and in such cases, the Respondent will be afforded due process in connection with the suspension proceedings.

Further, the Exchange believes that adopting a rule applicable to options is consistent with the Act because the Exchange believes that this type of behavior should be prohibited for all Members. The type of product should not be the determining factor, rather the behavior which challenges the market structure is the primary concern for the Exchange. While this behavior may not be as prevalent on the options market today, the Exchange does not believe that the possibility of such behavior in the future would not have the same market impact and thereby warrant an expedited process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that each self-regulatory organization should be empowered to regulate trading occurring on its market consistent with the Act and without regard to competitive issues. The Exchange is requesting authority to take appropriate action if necessary for the protection of investors, other Members and the Exchange. The Exchange also believes that it is important for all exchanges to be able to take similar action to enforce their rules against manipulative conduct thereby leaving no exchange prey to such conduct.

The Exchange does not believe that the proposed rule change imposes an undue burden on competition, rather this process will provide the Exchange with the necessary means to enforce against violations of manipulative quoting and trading activity in an expedited manner, while providing Members with the necessary due process. The Exchange's proposal would treat all Members in a uniform manner with respect to the type of disciplinary action that would be taken for violations of manipulative quoting and trading activity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become operative on filing. The Exchange stated that the proposed rule change would allow the Exchange to regulate its market in a manner similar to other options exchanges. The Exchange also believes that it is important to prohibit Members from engaging in the manipulative conduct described above in a uniform manner on all exchanges. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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[14] 15 U.S.C. 78f(b)(7).

[15] U.S.C. 78f(d)(1).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2016–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2016–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–21, and should be submitted on or before October 20, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–23498 Filed 9–28–16; 8:45 am]

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[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0315]

Northcreek Mezzanine Fund II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Northcreek Mezzanine Fund II, L.P., 312 Walnut Street, Suite 2310 Cincinnati, OH 45202, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Northcreek Mezzanine Fund I, L.P. and Northcreek Mezzanine Fund II, L.P. propose to provide debt and equity financing to Alpha Sintered Metals, LLC, 95 Mason Run Road, Ridgway, PA 15853.

The financing is brought within the purview of § 107.730(a)(2) of the Regulations because Northcreek Mezzanine Fund I, L.P. is currently invested in Alpha Sintered Metals, LLC and because of its level of ownership, Alpha Sintered Metals, LLC is an Associate. Northcreek Mezzanine Fund I, L.P. and Northcreek Mezzanine Fund II, L.P. are also Associates and are seeking to co-invest in Alpha Sintered Metals, LLC. Therefore this transaction is considered financing an Associate, requiring prior SBA exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: September 14, 2016.

Mark L. Walsh,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2016–23485 Filed 9–28–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14871 and #14872]

Kentucky Disaster #KY–00061

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Kentucky dated 09/22/2016.

Incident: Severe Storms, Torrential Rains, Tornadoes, Severe Wind, Hail and Flooding.

Incident Period: 07/03/2016 through 07/09/2016.

Effective Date: 09/22/2016.

Physical Loan Application Deadline Date: 11/21/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 06/22/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Marshall, Todd

Contiguous Counties:

Kentucky: Calloway, Christian, Graves, Livingston, Logan, Lyon, McCracken, Muhlenberg, Trigg

Tennessee: Montgomery, Robertson

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14871 B and for economic injury is 14872 0.

The States which received an EIDL Declaration # are Kentucky, Tennessee.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: September 22, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–23476 Filed 9–28–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Announcement of Funding Pool Size for the Growth Accelerator Fund Competition

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: On May 4, 2016, the U.S. Small Business Administration (SBA) published a notice in the **Federal Register** (81 FR 26861) to announce the 2016 Growth Accelerator Fund Competition, pursuant to the America Competes Act (15 U.S.C. 3719), to identify the nation's most innovative accelerators and similar organizations and award them cash prizes they may use to fund their operations costs and allow them to bring startup companies to scale and new ideas to life, including providing assistance to small businesses submitting proposals through the Small Business Innovation Research and/or Small Business Technology Transfer Programs (SBIR/STTR). On August 2, 2016, SBA updated the original notice to announce a total funding pool size of $3.4 million, which included funds from partnering agencies, the National Institutes of Health (NIH), the National Science Foundation (NSF), and the Department of Education (DoED). This notice serves as an update to the original notice, as amended, for an increase of $850,000 in SBA appropriated funds to award $50,000 prizes for up to 17 additional accelerators under the 2016 Growth Accelerator Fund Competition. Additional winners will be notified by no later than September 30, 2016. All rules and requirements outlined in the May 4, 2016, **Federal Register** notice, as amended, remain in effect.

Authority: Pub. L. 111–358 (2011).

Dated: September 22, 2016.

Mark Walsh,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2016–23484 Filed 9–28–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14856]

Montana Disaster #MT–00099 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Montana, dated 09/20/2016.

Incident: River Conditions Resulting in the Closure of the Yellowstone River.

Incident Period: 08/19/2016 and continuing.

Effective Date: 09/20/2016.

EIDL Loan Application Deadline Date: 06/20/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Park, Stillwater.
Contiguous Counties:
Montana: Carbon, Gallatin, Golden Valley, Meagher, Sweet Grass, Yellowstone.
Wyoming: Park.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 148560.

The States which received an EIDL Declaration # are Montana, Wyoming.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: September 20, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–23482 Filed 9–28–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14873]

California Disaster #CA–00256 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 09/22/2016.

Incident: Rancho Shopping Center Fire.

Incident Period: 05/25/2016.

Effective Date: 09/22/2016.

EIDL Loan Application Deadline Date: 06/22/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Santa Clara
Contiguous Counties:
California: Alameda, Merced, San Benito, San Joaquin, San Mateo, Santa Cruz, Stanislaus

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 148730.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: September 22, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–23481 Filed 9–28–16; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 764X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Pike County, KY

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 5.1-mile rail line on its Northern Region, Louisville Division, and Coal Run Subdivision (also known as the Winns Branch), between mileposts CML 9.0 and CML 14.1, in Pike County, KY (the Line). The Line traverses United States Postal Service Zip Codes 41557 and 41501. There is one station on the Line, Frozen Creek at milepost 14 (FSAC 84185/OPSL 67466.08), which can be closed.

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) since the Line is not a through line, no overhead traffic has moved over the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending before the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[1]

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on October 29, 2016 (50 days after the filing of the exemption), unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by October 7, 2016.[3] Petitions to reopen must be filed by October 19, 2016, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 26, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2016–23535 Filed 9–28–16; 8:45 am]

BILLING CODE 4915–01–P

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[1] Section 1152.50(d)(1) requires that a railroad provide notice to governmental agencies 10 days before filing a notice for discontinuance. CSXT filed its notice with the Board on September 7, 2016, eight days after mailing notice of the proposed discontinuance to the governmental agencies. Therefore, we will consider the notice to have been filed with the Board on September 9, 2016.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[3] Because CSXT is seeking to discontinue service, not to abandon the Line, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Summer 2017 Scheduling Season

AGENCY: Department of Transportation, Federal Aviation Administration (FAA).

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces the submission deadline of October 6, 2016, for summer 2017 flight schedules at Chicago O'Hare International Airport (ORD), John F. Kennedy International Airport (JFK), Los Angeles International Airport (LAX), Newark Liberty International Airport (EWR), and San Francisco International Airport (SFO), in accordance with the International Air Transport Association (IATA) Worldwide Slot Guidelines (WSG). The deadline coincides with the schedule submission deadline for the IATA Slot Conference for the summer 2017 scheduling season.

DATES: Schedules must be submitted no later than October 6, 2016.

ADDRESSES: Schedules may be submitted by mail to the Slot Administration Office, AGC–200, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591; facsimile: 202–267–7277; or by email to: *7-AWA-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone number: 202–267–6462; email: *susan.pfingstler@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has designated EWR, LAX, ORD, and SFO as IATA Level 2 airports and JFK as an IATA Level 3 airport. The FAA currently limits scheduled operations at JFK by Order until October 27, 2018.[1]

The FAA is primarily concerned about scheduled and other regularly conducted commercial operations during peak hours, but carriers may submit schedule plans for the entire day. At ORD, the peak hours are 0700 to 2100 Central Time (1200 to 0200 UTC), at LAX and SFO from 0600 to 2300 Pacific Time (1300 to 0600 UTC), and at EWR and JFK from 0600 to 2300 Eastern Time (1000 to 0300 UTC). Carriers should submit schedule information in sufficient detail, including, at minimum, the operating carrier, flight number, scheduled time of operation, frequency, and effective dates. IATA standard schedule information format and data elements (Standard Schedules Information Manual or SSIM, Chapter 6) may be used. The WSG provides additional information on schedule submissions and updates at Level 2 and Level 3 airports.

The U.S. summer scheduling season for these airports is from March 26 through October 28, 2017, in recognition of the IATA northern summer period. The FAA understands there may be differences in schedule times due to different U.S. daylight saving time dates and will accommodate these differences to the extent possible.

JFK will have construction in 2017 on Runway 4R/22L for rehabilitation of pavement, widening of certain taxiways, new high speed taxiways, drainage system upgrades, and electrical light systems replacement. The Port Authority of New York and New Jersey (PANYNJ), the airport operator, plans to conduct the construction in three phases in order to minimize operational impacts during the busiest summer months of June through August. Phase I anticipates a full closure of Runway 4R/22L, currently scheduled from February 27 to June 1, 2017. Phase II anticipates closures nightly from 0400 to 1100 UTC from June 1 to September 4, 2017, followed by Phase III with a full Runway 4R/22L closure planned from September 5 to November 17, 2017. The FAA and the PANYNJ are working together to minimize operational disruptions to the extent possible. The FAA is also continuing to review alternative runway configurations and procedures and modeling potential capacity and delay impacts. Regular meetings are conducted with the FAA, PANYNJ, and airline station and other staff, and may be the best source of project updates and impacts.

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[1] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008) as amended 81 FR 32636 (May 24, 2016).

LAX will undergo construction on Runway 7L/25R for runway safety areas and rehabilitation in 2017. Los Angeles World Airports (LAWA), the airport operator, will close the runway for approximately four months from January to May 2017. The final dates have not been determined at this time. LAWA conducts monthly meetings on construction updates with FAA local air traffic control and airline representatives. Such meetings may be the best source of project updates and impacts.

The FAA will use hourly runway capacity throughput for the Level 2 airports in its schedule reviews, considering any differences associated with runway construction or other operational factors. The FAA will also review the operational performance metrics at the airports for the summer 2016 scheduling season as additional data become available.

EWR is transitioning from Level 3 limitations under the FAA Order to a Level 2 designation effective with the winter 2016 scheduling season.[2] In reviewing schedules, the FAA will consider the recent operational performance metrics, delay projections when the Level 3 scheduling limits were adopted in 2008, and the scheduled flight levels the FAA accepted under the 2008 Order. Based on current and projected demand for the summer 2017 scheduling season, the FAA anticipates the 0700 to 0859 and 1400–2059 Eastern Time (1100 to 1259 and 1800 to 0059 UTC) hours will be the highest demand periods and not all requests are likely to be accommodated during these times. Carriers should be prepared to adjust schedules to meet available capacity in order to minimize potential congestion and delay.

Each Level 2 airport also has a separate process adopted by the airport operator for certain types of flights, such as international passenger flights, or at particular terminals or gates. Those processes with the individual airports or terminals will continue separately from and in addition to the FAA review of schedules based on runway capacity. However, in conjunction with the schedule facilitators for terminal operations at those airports, the FAA may consider the need to harmonize terminal and runway availability in the schedule review process.

Issued in Washington, DC, on September 23, 2016.

Daniel E. Smiley,

Vice President, System Operations Services.

[FR Doc. 2016–23563 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–13–P

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[2] Operating Limitations at Newark Liberty International Airport, 73 FR 29550 (May 21, 2008) as amended 79 FR 16857 (Mar. 26, 2014). Change in Newark Liberty International Airport Designation, 81 FR 19861 (April 6, 2016).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors meeting

TIME AND DATE: The meeting will be held on October 13, 2016, from 12:00 Noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–422–1931, passcode 2855443940, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: September 23, 2016.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2016–23654 Filed 9–27–16; 11:15 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket Number: FTA–2016–0013]

Notice of Final Equal Employment Opportunity Program Circular

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of availability of final Circular.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site guidance in the form of a Circular to assist recipients in complying with various Equal Employment Opportunity regulations and statutes. The purpose of this Circular is to provide recipients of FTA financial assistance with instructions and guidance necessary to carry out the U.S. Department of Transportation's Equal Employment Opportunity regulations. FTA is updating its Equal Employment Opportunity Circular to clarify the requirements for compliance.

DATES: *Effective Date:* The final Circular becomes effective October 31, 2016.

FOR FURTHER INFORMATION CONTACT: For program questions, Anita Heard, Office of Civil Rights, Federal Transit Administration, 1200 New Jersey Avenue SE., Room E54–306, Washington, DC 20590, phone: (202) 493–0318, or email, *anita.heard@dot.gov.* For legal questions, Bonnie Graves, Office of Chief Counsel, 90 Seventh Street, Suite 15–300, San Francisco, CA 94103, phone: (202) 366–4011, fax: (415) 734–9489, or email, *bonnie.graves@dot.gov.*

SUPPLEMENTARY INFORMATION: This notice provides a summary of the final changes to the EEO Circular and responses to comments. The final Circular itself is not included in this notice; instead, an electronic version may be found on FTA's Web site, at *www.transit.dot.gov,* and in the docket, at *www.regulations.gov.* Paper copies of the final Circular may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366–4865.

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C. Chapter 3—EEO Compliance Oversight, Complaints, and Enforcement
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I. Overview

FTA is updating its EEO Circular to clarify what recipients must do to comply with Titles VI and VII of the Civil Rights Act of 1964, Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), 49 U.S.C. Chapter 53 (Federal Transit law), other Federal civil rights statutes, and the U.S. Department of Transportation (DOT) regulations in 49 CFR part 21.

FTA issued a notice of availability of the proposed Circular and a request for comments in the **Federal Register** (81 FR 11348) on March 3, 2016. The comment period closed May 2, 2016. We received comments from 19 entities, including transit agencies, State DOTs, individuals, and the American Public Transportation Association. In addition, in accordance with Executive Order 12067, FTA coordinated development of this final Circular with the Equal Employment Opportunity Commission (EEOC). We have made clarifying edits in response to EEOC comments on the Circular. This notice addresses comments received and explains changes we made to the Circular in response to comments.

II. Chapter-by-Chapter Analysis

General Comments

The Circular is organized topically. Each chapter begins with an introduction and is divided into sections and subsections. The organizational structure includes the text of the guidance, followed by a clearly delineated discussion section (as needed), which provides the means of complying with the law, as well as relevant good practices.

One commenter requested a clarification of items presented as "good practices." The commenter expressed concern that the good practices might form the basis for a deficiency finding in a future FTA oversight review. To address this concern we added a statement at the beginning of chapter 1: "Good practices, while encouraged, are not requirements. Agencies that do not utilize these practices are not subjecting themselves to findings in oversight reviews."

One commenter objected to the statement on the cover page of the Circular that states, "FTA reserves the right to update this Circular to reflect changes in other revised or new guidance and regulations that undergo notice and comment, without further notice and comment on this Circular." This language appears on the cover page of all FTA circulars. In the event a regulatory or other cross-cutting requirement has changed, it has changed with a notice and comment process, so there is no need for a second notice and comment process in order to update the Circular to reflect the change. FTA encourages stakeholders to sign up for email updates on FTA's Web site, *www.transit.dot.gov*.

One commenter suggested that FTA should monitor recipients more closely instead of relying on recipients' certification of compliance. FTA conducts reviews of all recipients on a triennial basis, conducts specialized EEO reviews, and investigates complaints. In addition, recipients' employees have the right to file complaints with the Equal Employment Opportunity Commission. Given the remedies available to employees, the large number of FTA recipients, and limited FTA resources, we believe our level of monitoring recipients for compliance is appropriate.

A. Chapter 1—Introduction and Applicability

Chapter 1 of the Circular is an introductory chapter that reviews the organization of the Circular, the authority for establishing the Circular, and applicability to recipients.

One commenter suggested we add "disability," "veteran status," and "genetic information" to the list of bases on which discrimination is prohibited, and we have added those terms in section 1.2, Organization of this Circular. In section 1.3, Authorities, we have added the Equal Pay Act, the Age Discrimination in Employment Act, Title I of the Americans with Disabilities Act, Sections 501 and 505 of the Rehabilitation Act of 1973, and Title II of the Genetic Information Nondiscrimination Act of 2008. In the Definitions section we have made clarifying edits to the terms Complainant, Concentration, Disability, Discrimination, Disparate Impact, Disparate Treatment, Protected Class, and Underutilization. We have added definitions for the terms Four-fifths Rule, Reasonable Accommodation, Retaliation, and Sex-based Discrimination. Finally, we replaced the term Primary Recipient with the term Direct Recipient, and replaced the term One-person Rule with the term Whole-person Rule.

FTA requested comments regarding a potential change to the threshold for Equal Employment Opportunity Program submission from the current standard of recipients with 50 transit-related employees, to recipients with 100 transit-related employees. Commenters supported this threshold increase, and we have adopted the increased threshold in the final Circular. Further, agencies with 50–99 employees will not be required to conduct a utilization analysis with goals and timetables or to submit an EEO Program to FTA. They will instead prepare and maintain an abbreviated EEO Program and provide it to FTA upon request or for any State Management Review or Triennial Review. The Circular does not apply to transit employers with fewer than 50 employees.

One commenter asked FTA to clarify the 100 transit-related employees threshold and to more clearly define what collateral duties include for part-time employees. This information is in section 1.4 of the Circular and in a footnote in that section. When calculating the total number of transit-related employees, agencies are required to include all part-time employees and employees with collateral duties that support the transit program. For example, a budget analyst who processes payments for the transit program would be considered a transit-related employee.

FTA requested comments on potential changes to the Memorandum of Understanding (MOU) between FTA and the Federal Highway Administration (FHWA). We received no comments. The Circular has been revised to reflect that pursuant to an MOU with FHWA, FHWA and FTA will jointly review, monitor, and approve State DOT EEO Programs.

B. Chapter 2—EEO Program Requirements

Chapter 2 explains the seven required elements of an EEO Program for FTA review. The chapter details required language, required supporting documentation, the type of analysis that must be conducted, and the acceptable methods to report the results of that analysis.

2.1 Frequency of Update

FTA proposed that EEO Programs be updated and submitted to FTA on a triennial basis or as major changes occur in the workforce or employment conditions. One commenter suggested FTA add the language, "whichever comes first" at the end of the sentence to clarify that FTA requires the EEO Program to be updated at a minimum every three years, or sooner if conditions warrant. We have made that change.

In addition, given that transit agencies must submit data to the EEOC every other year, we have changed the reporting requirement to FTA to every four years. This should lessen the burden on transit agencies and allow them to report to EEOC and to FTA in the same year using the same data. FTA plans to publish a submission schedule for all agencies with 100 or more transit-related employees. In order to get all agencies on a four-year schedule, some agencies may be required to submit an updated EEO Program sooner than they would otherwise have to. FTA will work to minimize impacts on agencies as we get all agencies on a new four-year schedule.

FTA proposed removing the following sentence, which appears in the 1988 Circular: "At the discretion of FTA Office of Civil Rights, less information may be requested where the recipient's previously submitted EEO Program has not changed significantly." Several commenters disagreed with this proposal, asserting a requirement for a full update of an EEO Program when there are no significant changes places an unnecessary burden on small agencies that are in compliance and have limited staff, and is not necessary for agencies with strong EEO Programs or EEO Programs that have not changed significantly. In response to commenters, we have restored that language.

2.2.1 Statement of Policy

FTA proposed that agencies would be required to update their EEO policy annually or after the naming of a new CEO/GM or EEO Officer. One commenter suggested that if there are no changes to the EEO policy, there would be no need to update it. We revised the language to require a review and update at least every four years, when the EEO Program is submitted to FTA, or after the naming of a new CEO/GM or EEO Officer.

2.2.2 Dissemination

FTA proposed that top management officials would need to meet quarterly to discuss the EEO Program and its implementation. Several commenters objected to this frequency, asserting it would be overly burdensome for the agency, and recommending semiannual or annual meetings would be sufficient. We agreed with those comments and revised the Circular to reflect that the meetings take place at least semiannually.

In this section, FTA proposed that agencies be required to conduct EEO training for all new supervisors or managers within 30 days of their appointment. Two commenters suggested this timeframe should be extended; one suggested the training take place within six months, and one recommended it take place within 90 days. We have revised the Circular to require that training for supervisors and managers be conducted within 90 days of their appointment.

FTA proposed that agencies be required to meet with employees of protected classes and affinity groups to seek input on EEO Program implementation. Two commenters suggested that all employees should be invited to provide input on the program implementation, not just members of protected classes or affinity groups. We have revised the Circular to require meetings with all employees and affinity groups to seek input on EEO Program implementation.

2.2.3 Designation of Personnel

In order to ensure impartiality and independence of the EEO Officer, FTA proposed that the EEO Officer would need to be separated from human resources officials. Several commenters objected to this proposal. The general consensus was that in agencies where the administrative staffs are small, separation of duties is impossible. One agency asserted that to create an EEO position separate from human resources would dilute the department's effectiveness to ensure EEO and legal compliance. Others suggested such a separation would cast concerns on the ability of the human resources department to protect equal employment opportunity. One commenter suggested FTA should not attempt to dictate how individual agencies avoid such conflicts of interest and that there would be substantial costs involved. Another commenter asserted the proposed separation ignored the normal function and role of a human resources department—to be knowledgeable about and enforce labor and employment laws, regulations and workplace rules—and that attempting to carve out functions in a way that is illogical would only serve to confuse all employees in the organization. In response, we have revised this section to state that in order to maintain the independence and integrity of the EEO Officer, it *may* be necessary to separate the function from human resources. Agencies are not required to separate EEO and HR. However, in the event the EEO Officer is part of HR, we have added language that requires the agency to include in its EEO Program a detailed method for eliminating conflicts of interest in complaint investigations, including a narrative describing how independence and integrity of the EEO process will be achieved and maintained.

Similar to the separation of function between EEO and HR, FTA proposed that in order to maintain distance between the investigation of EEO complaints and defense of the agency, that the functional unit that reviews EEO matters be separate and apart from the functional unit that represents the agency in EEO complaints. Several commenters objected to this proposal. One commenter expressed concern about the phrasing of the language, specifically that attorneys rather than EEO Officers would represent an agency at administrative hearings. Another commenter expressed concern that the separation could inhibit a lawyer's ability to provide legal guidance on EEO requirements or could require the creation of two EEO offices, for internal and external complaints. Another commenter stated that the EEO Officer is better suited to report to a legal office because of the need for advice regarding perplexing or difficult EEO matters and the level of expertise needed to navigate the numerous EEO laws, regulations, and court rulings. In response, we clarified that the attorney who provides legal expertise to the EEO Officer in the investigation of a case cannot represent the agency in the same EEO case.

FTA proposed that in order to ensure complaints are investigated effectively, those individuals charged with investigating complaints must have EEO investigative training. Two commenters requested clarification on what would constitute sufficient EEO investigative training for EEO Officers. We have revised the Circular to include the specific information that should be covered in this training.

FTA proposed removing the requirement that EEO Officers concur on hires and promotions. Several commenters objected to this change. They asserted this requirement ensured the EEO Officer was involved in the process. They also suggested the removal of this function would undermine their ability to be part of the process. Two commenters supported the removal of the statement, stating the requirement was overly burdensome. We reinstated the statement and provided a sample concurrence checklist in an Attachment that clarifies what "concurrence" entails.

2.2.4 Utilization Analysis

The utilization analysis is a comparative analysis in which the female and minority availability for each EEO subgroup is compared with the current workforce representation of females and minorities.

There was a concern that "two or more races (not Hispanic or Latino)" is a subcategory that is currently not collected on the EEO–4 forms. OMB approved the change of the EEO–4 categories to be consistent with the EEO–1, including two or more races.

One commenter was concerned that extending to agencies with fewer than 100 transit employees the requirement to complete the FTA's electronic database for analysis and utilization of hires, promotions, and personnel's applications, without additional financial resources, would be extremely burdensome for smaller agencies to complete and track. The commenter urged FTA to consider limiting the FTA analysis and utilization database submittal only to agencies that meet the threshold for the submittal of an EEO Program. In response, we revised the Circular to provide that agencies with 50–99 employees will not be required to submit a full plan to FTA every four years, and will not be required to conduct a utilization analysis.

Two commenters sought clarification on how to track individuals with disabilities and veteran status with no baseline for availability. We have included language in section 2.2.6 that states we are not asking agencies to set a goal for veterans or persons with disabilities based on availability numbers. There is no whole person rule or four-fifths analysis. The agency can set its own specific aspirational goals, but the Circular asks agencies to track raw numbers; for example, the number applied, number hired, number applied for promotion, and number promoted.

One commenter requested clarification on setting department/unit/functional area goals. The Circular states, "Although FTA requires utilization data summarized for each job category, agencies are encouraged to compile workforce statistics for each department, job category, grade/rank of employee (*e.g.,* Road Supervisor I or II, Mechanic A or B, etc.), and job title to include salary ranges and principal duties for the jobs in each subcategory." We did not revise the Circular based on this comment, as the Circular states setting goals based on workforce statistics for each department, job category, grade/rank of employee is an encouraged good practice. It is not a requirement.

2.2.5 Goals and Timetables

One commenter asserted that setting long-term and short-term goals and timetables for each individual minority group, broken down by specific racial/ethnic subcategories for men and women, could only be achieved by conducting targeted recruitments, which could be perceived as discriminatory in California under the Fair Employment and Housing Act (FEHA). FTA did not revise the proposal, as the short-term and long-term goals are aspirational goals based on identified underutilization and the results of the employment practices analysis.

2.2.6 Assessment of Employment Practices

FTA proposed that agencies be required to describe their efforts to locate, qualify, and train employees in protected classes. One commenter asserted all employees, not just employees of a protected class, should be able to receive training and that any action to locate, qualify, and train employees in protected classes could be perceived as discriminatory under FEHA. Certainly all employees should be able to avail themselves of training; the only documentation FTA requires in the EEO Program is those efforts to locate, qualify, and train employees in protected classes.

Another commenter asked for clarification on whether or not test validation documentation is required for all candidate selections. As clarification, test validation is completed per test, not per candidate. The commenter also asked FTA to clarify or remove the requirement that agencies provide a narrative of current seniority policies and procedures for union and non-union workers. We have revised the Circular to provide that agencies must provide a narrative for union and non-union workers if the seniority policies are different. In order to conduct a qualitative assessment of seniority practices to determine any potential disparate impact, a narrative must be provided.

One commenter noted that revising union agreements is a complex process that cannot be done unilaterally by an agency. In response, we revised the Circular to state, "When agencies are negotiating or amending union agreements, FTA requires agencies to review and revise the agreements wherever current provisions are identified as barriers to equal employment." The commenter further asserted, with regard to disciplinary procedures and termination practices, that it would be unreasonable to require agencies to use the "same" standard for determining when a person will be demoted, disciplined, or laid off in light of collectively bargained-for procedures and practices, and in light of state civil service law provisions governing the appointment, promotion and continuance of employment of certain agency employees (including layoffs). We have not revised the Circular in response to this comment, as the Circular provides for placing employees in similarly situated groupings (*e.g.,* subject to the same schedule of disciplinary charges) and requires separate analyses for employees subject to different disciplinary processes.

2.2.7 Monitoring and Reporting

FTA proposed that agencies would be required to evaluate their EEO Programs at least quarterly. Several commenters objected to meeting with management quarterly to discuss the EEO Program and its implementation. They asserted it would be overly burdensome for the agency. We revised the Circular to reflect the evaluation should take place, at a minimum, semiannually.

Some commenters suggested that unit managers should not have access to EEO information and that tracking this information is entirely a human resources function. There was also concern that reviewing this information with all levels of management could breach confidentiality for smaller agencies. The Circular has been revised to say all "program" EEO-related meetings should be discussed. The meetings that are conducted with managers are to discuss the agency's progress in terms of meeting their EEO Program goals and requirements, not to discuss individual EEO complaints.

One commenter questioned whether FTA is requiring the agency to track the agenda and outcome of every single meeting that the EEO Officer has with the CEO/GM, with any management official, and with human resources, with a concern on resource management. We are revising the Circular to provide documentation of meetings where EEO is officially discussed; for example, official EEO training and official meetings with management to report on EEO Program progress and plans of actions. There is no need to document every conversation.

FTA proposed that one element of a successful EEO Program is to, "Produce documentation that supports actions to implement the plan for minority and female job applicants or employees and informs management of the program's effectiveness." One commenter suggested replacing "for minority and female" with "to improve diversity of." FTA did not adopt this suggestion. We believe it is important to specifically state "minority and female" as opposed to the more general "improve diversity," in order to ensure agencies are documenting their efforts appropriately. FTA proposed that one of the EEO Program attachments would be an organization chart showing the reporting relationships of all positions. One commenter suggested the organizational chart section should be revised so that it did not include the names of all employees. We have revised the Circular to clarify that only directors, department heads, and executive leadership are to be named on the organization chart.

FTA sought comment on how long it would take to develop an EEO Program with the requirements set out in chapter 2 of the Circular. FTA also sought suggestions from recipients regarding how to use information technology to decrease the amount of time it takes to develop an EEO Program. One commenter suggested that the Circular has new data collection requirements that will require coordination with departmental units such as human resources and information technology. The commenter sought a 12-month grace period before new statistical data is required. As stated above, FTA will be drafting a new schedule for quadrennial submission of EEO Programs to FTA. FTA will work with agencies that find themselves on the "earlier" side of the schedule and that may need to update their internal practices in order to develop an effective EEO Program.

C. Chapter 3—EEO Compliance Oversight, Complaints, and Enforcement

One commenter requested additional clarity and definition of factors and concerns that may trigger a discretionary review. We revised the Circular to clarify the six factors that contribute to the selection for a civil rights specialized review.

D. Attachments

In the proposed Circular, FTA included several Attachments: Attachment 1, References; Attachment 2, Sample EEO Policy Statement; and Attachment 3, Sample Excel Charts. We did not receive comments on any of the Attachments. In response to comments that the EEO Officer should concur in the hiring and promotion process, we have added a new Attachment, Sample Concurrence Checklist. Additionally, we added a copy of the EEO–4 form, Program Submission checklist, EEO Program checklist. The Circular now includes: Attachment 1, Sample Policy Statement; Attachment 2, Sample Concurrence Checklist; Attachment 3, EEO–4 Form; Attachment 4, Sample Employment Practices and Utilization Analysis Excel Charts; Attachment 5, EEO Program Submission Checklist; Attachment 6, Sample EEO Program Checklist; Attachment 7, References.

Carolyn Flowers,

Acting Administrator.

[FR Doc. 2016–23505 Filed 9–28–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY16 Discretionary Funding Opportunity: Low or No Emission Component Assessment Program (LoNo-CAP)

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO) and Request for Proposals (RFP).

SUMMARY: The Federal Transit Administration (FTA) is requesting proposals from qualified institutions of higher education to conduct testing, evaluation, and analysis of low or no emission components intended for use in low or no emission transit buses used to provide public transportation. FTA is authorized to pay 50 percent of the established assessment fees, up to $3.0 million annually. A total of $15.0 million is authorized at $3.0 million per year starting in FY 2016 through FY2020 to carry out the Low and No Emission Component Assessment Program (LoNo-CAP). Funds awarded under the LoNo-CAP program will be used to reimburse the cost of assessing eligible components.

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* "APPLY" function by 11:59 EDT on November 28, 2016. Prospective applicants should initiate the process by registering on the *GRANTS.GOV* Web site promptly to ensure completion of the application process before the submission deadline.

This announcement is also available at FTA's Web site at: *https://www.transit.dot.gov/funding/grants/notices* and in the "FIND" module of *GRANTS.GOV.* The funding opportunity ID is FTA–2016–009–TRI-LoNoCAP and the Catalog of Federal Domestic Assistance (CFDA) number for Section 5312 is 20.514. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Marcel Belanger, Bus Testing Program Manager, FTA Office of Research, Demonstration, and Innovation at: (202) 366–0725 or *LoNo-CAP@dot.gov.* A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

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A. Program Description

FTA recognizes that a significant transformation is occurring in the transit bus industry, with the increasing availability and deployment of low and zero emission transit buses for revenue operations. The adoption of these technologically advanced transit buses will allow the country's transportation systems to move toward a cleaner and more energy-efficient future, as described in the U.S. Department of Transportation's recent report, *Beyond Traffic 2045.* FTA remains committed to the deployment of low or no emission transit buses to support the transition of the nation's transit fleet to the lowest polluting and most energy-efficient transit bus technologies, thereby reducing local air pollution and direct carbon emissions by way of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, July 6, 2012, Section 5312 Low or No Emission Vehicle Deployment Program (LoNo) and the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94, December 4, 2015, 5339(c) Low or No Emission Grant Program (Low-No). Since 2014, FTA has provided over $100 million in competitive funds to support the introduction of low and no emission transit buses into transit system fleets. LoNo-CAP directly supports the mission of FTA's ongoing LoNo programs.

FTA's goals for LoNo-CAP, in general, are to:

- Provide unbiased assessments of low or no emission vehicle components, documenting (at a minimum) the maintainability, reliability, performance, structural integrity, efficiency, and noise of the tested components
- Increase the quality and lower the overall cost of low or no emission vehicle components
- Expand the supply chain for low or no emission vehicle components
- Increase the deployment of the cleanest and most energy-efficient transit buses into transit agency fleets
- Advance the development of materials, technologies, and safer designs
- Support the development of applicable standards, protocols, and best practices

- Reduce the risk to Transit Vehicle Manufacturers (TVM) of using low or no emission vehicle components from unfamiliar manufacturers
- Complement, not replace, the testing of complete transit buses performed under the FTA Section 5318 Bus Testing Program
- Complement, not replace, existing Federal government testing (*e.g.,* Environmental Protection Agency testing of engine emissions, National Highway Traffic Safety Administration testing of crash safety, etc.)
- Continue FTA's legacy of supporting the transit industry in the introduction of advanced technologies to reduce the energy consumption and emissions of transit buses.

Section 5312(h) of Title 49, United States Code, as amended by the FAST Act, authorizes LoNo-CAP. FTA is authorized to competitively select at least one testing facility at an "institution of higher education" as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) to conduct testing, evaluation, analysis, and reporting of testing results of low or no emission components intended for use in low or no emission transit vehicles. LoNo-CAP will focus on transit buses and provide unbiased information on LoNo components used in those buses. LoNo-CAP differs from the Section 5318 Bus Testing Program in that LoNo-CAP testing is voluntary, it will only test components, and it will not assign passing or failing scores. FTA may select one institution that is able to test all components, or it may select a small number of individual institutions, or a consortium of complementary institutions, each specializing in testing different LoNo components. The FAST Act requires that the institution(s) selected under LoNo-CAP must be separate and distinct from the facility operated and maintained under Section 5318. The low or no emission component testing performed under LoNo-CAP complements the Section 5318 Bus Testing Program, under which FTA will continue to test complete buses as a condition of eligibility for FTA grant funding.

For the purpose of LoNo-CAP, the term "low or no emission component" means an item that is separately installed in and removable from a low or no emission transit bus. Furthermore, the components to be tested under LoNo-CAP should enable or significantly support low or zero emissions transit bus operation. FTA is limiting the LoNo-CAP to assessing components for transit buses due to limited program resources. Compared to transit buses, zero-emission components for transit rail vehicles are technologically mature. Examples of LoNo components for transit buses include, but are not limited, to: Batteries, fuel cells, electric motors and generators, power electronics, battery management systems, air compressors, HVAC systems, gaseous fuel storage systems, and DC/DC converters.

For the purpose of LoNo-CAP, the term "transit bus" means a rubber-tired vehicle used for the provision of public transportation service by or for an FTA recipient. Components for trolley buses powered by overhead wires will be eligible for testing under LoNo-CAP.

All component assessments conducted under the program will be considered public information and the results of LoNo-CAP assessments will be published online and summarized in an annual report to Congress. Private component assessments may be performed by mutual agreement of the parties, but will not receive a subsidy from FTA.

The Federal Government's participation in the cost of component assessments is limited to 50 percent of the established individual component assessment fee, and is further limited to a total of $3 million per year. Any party interested in having an assessment performed can submit a LoNo component to an appropriate FTA-funded facility selected under this announcement and that party will pay the remaining 50 percent of the assessment fee.

A selected institution may use the collected fees to operate and maintain the program to include reasonable equipment maintenance and upkeep of the physical plant. LoNo-CAP funds are not meant to build new infrastructure or enhance existing facilities to add a capability that did not exist at the time of the award, however minor capital equipment purchases may be needed to support the ongoing operations and should be accounted for in the development of the testing fees, subject to FTA approval prior to award.

B. Federal Award Information

A total of $15.0 million has been authorized at $3.0 million per year starting in FY 2016 through FY 2020 to carry out LoNo-CAP. Program funds are not eligible to directly cover costs of capital improvements or equipment that a facility does not have at the time of selection. FTA will enter into a grant, contract or cooperative agreement with one or more institutions of higher education for component testing. FTA will fund $3 million per year through FY 2020, dependent on annual performance reviews.

Estimated fiscal funding by year is:

FY 16:	$3 million
FY 17:	$3 million
FY 18:	$3 million
FY 19:	$3 million
FY 20:	$3 million
Total	$15 million

C. Eligibility Information

1. Eligible Applicants

As specified in Section 5312(h), FTA will consider proposals only from "institutions of higher education" as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002). Eligible institution(s) of higher education must have capacity to carry out transportation-related advanced component testing and evaluation, with laboratories capable of testing and evaluation, and direct access to or a partnership with a testing facility capable of emulating real-world circumstances in order to test low or no emission components. The facility operated and maintained under the Section 5318 FTA Bus Testing Program is specifically excluded from eligibility for LoNo-CAP.

2. Cost Sharing

Traditional cost sharing or matching is not required for awards resulting from this funding opportunity. Pursuant to Section 5312(h), FTA will pay 50 percent of the established testing fee of low or no emission transit bus components, up to a maximum of $3 million per year for each of FY2016 through FY2020. The remainder of the testing cost will be recovered from fees collected from the entities having the tests performed.

3. Eligible Projects

Under the LoNo-CAP, eligible projects are limited to assessments of low or no (LoNo) emission components to be used on low or no transit buses used to provide public transportation. FTA will fund up to 50 percent of the established fees for assessing maintainability, reliability, performance, structural integrity, efficiency and noise. FTA will fund these eligible projects through a grant, contract, or cooperative agreement awarded to the facility(s) selected to perform these assessments. Qualified applicants' proposals must demonstrate current capacity to perform and report on assessments of LoNo transit bus components. As a result, applications must contain the following information in sufficient detail to be eligible for funding consideration:

- Evidence that demonstrates the experience and current capacity to carry out transportation-related advanced LoNo component assessments

- Evidence that the applicant has a current laboratory or laboratories capable of testing and evaluation that contain appropriate measuring instrumentation, data collection and storage devices, and other equipment, as deemed appropriate by the applicant
- Evidence that applicant has direct access to or a partnership with a testing facility capable of emulating real-world circumstances such as a vehicle test track in order to test low or no emission components

D. Application and Submission Information

1. Address and Form of Application Submission

Project proposals must be submitted electronically through *GRANTS.GOV* (*www.grants.gov*) by November 28, 2016. Mail and fax submissions will not be accepted. A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from *GRANTS.GOV*) and (2) the Applicant and Proposal Profile for the "Low or No Emission Component Assessment Program" (supplemental form) found on the FTA Web site at *https://www.transit.dot.gov/research-innovation/lonocap*. The Supplemental Form provides guidance and a consistent format for proposers to respond to the criteria outlined in this NOFO.

2. Content and Form of Application Submission

(i) Proposal Submission

A complete proposal submission consists of a minimum of two forms: The SF424 Mandatory Form and the Supplemental Form. The Supplemental Form must be placed in the attachments section of the SF424 Mandatory Form. Proposers must use the Supplemental Form designated for LoNo-CAP and attach it to the submission in *GRANTS.GOV* to successfully complete the application process.

A proposal submission may contain additional supporting documentation as attachments. If an applicant elects to attach an additional proposal narrative, it must not exceed 10 numbered pages. Submissions must be presentable and use standard fonts, font sizing, and margins so reviewers can easily read the information.

Within 48 hours after submitting an electronic application, the applicant should receive three email messages from *GRANTS.GOV:* (1) Confirmation of successful transmission to *GRANTS.GOV,* (2) confirmation of successful validation by *GRANTS.GOV,* and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

The FTA urges proposers to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. The FTA will not accept submissions after the stated deadline. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* Web site. Deadlines will not be extended due to scheduled Web site maintenance.

Proposers are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered proposers may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually; and, (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions. Instructions on the *GRANTS.GOV* registration process are provided in the Appendix.

Information such as proposer name, Federal amount requested, etc. may be requested in varying degrees of detail on both the SF424 form and Supplemental Form. Proposers must fill in all fields unless stated otherwise on the forms. The Supplemental Form template supports pasting copied text with limited formatting from other documents; applicants should verify that pasted text is fully captured on the Supplemental Form and has not been truncated by the character limits built into the form. Proposers should use both the "Check Package for Errors" and the "Validate Form" validation buttons on both forms to check all required fields on the forms.

(ii) Application Content

The SF424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Applicant name
b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available (Note: If selected, applicant will be required to provide DUNS number prior to award)
c. Key contact information (including contact name, address, email address, and phone)
d. Congressional district(s) where the component assessments will take place
e. A list of team organizational members, by organization name and address
f. Documentation of the commitment of each organizational member of the team (*e.g.,* memorandum of understanding, letter of commitment, or other documentation)
g. A description of the technical, legal, and financial capacity of the applicant and organizational team member to carry out the proposed LoNo-CAP component assessments and reporting
h. A description of the component tests proposed to be performed and how they support the program purpose
i. A description of any related facilities and projects including those funded under other sources
j. A description of LoNo-CAP support facilities and infrastructure in existence, being procured through other programs, and/or being proposed using non-FTA funds to support this project
k. A detailed program management plan
l. A schedule outlining steps and milestones leading to the start of testing and reporting (overall, or for specific components, if different)
m. A schedule of fees for the tests the applicant institution proposes to perform
n. A detailed description of the approach for using industry standards, certification, and accreditation processes for assessing LoNo components
o. Evidence that establishes the applicant's capacity and capability to take on a project of this magnitude, including executive commitment, workforce capacity, and description of facilities and associated infrastructure readiness
p. A description of the content, format, and dissemination method(s) for the public component evaluation reports. FTA desires that the component testing reports be published to a user-friendly Section 508-compliant online searchable database
q. Details on types of data that will be generated and how the project team

will provide access for FTA and its designee to this project-related data for purposes of evaluation and performance management

3. Unique Entity Identifier and System for Award Management (SAM)

Registration in Brief

Registration can take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if you need to obtain an Employer Identification Number (EIN)), FTA recommends allowing ample time, up to several weeks, for completion of all steps.

STEP 1: Obtain DUNS Number

Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at *http://fedgov.dnb.com/webform* to obtain the number. *Information for Foreign Registrants. *Webform requests take 1–2 business days.

STEP 2: Register With SAM

Three to five business days or up to two weeks. If you already have an EIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to two weeks. Ensure that your organization is registered with the System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

STEP 3: Username & Password

Same day. Complete your AOR (Authorized Organization Representative) profile on *Grants.gov* and create your username and password. You will need to use your organization's DUNS Number to complete this step. *https://apply07.grants.gov/apply/OrcRegister.*

STEP 4: AOR Authorization

*Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to *Grants.gov* to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. *Time depends on responsiveness of your E-Biz POC.

STEP 5: Track AOR Status

At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) using the following link: *applicant_profile.jsp.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. EDT on November 28, 2016. Mail and fax submissions will NOT be accepted.

5. Funding Restrictions

Funds under this opportunity cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement, Contract, or Cooperative Agreement unless FTA has issued a "Letter of No Prejudice" for the project before the expenses are incurred.

E. Application Review

1. Review and Selection Process

A technical evaluation panel (TEP) will evaluate all eligible applications based on the applications' responses to information requested in this notice, plus supporting documentation. The TEP will collectively assign a rating to each eligible application using the following ratings: Recommended or Not Recommended.

The TEP will evaluate all eligible proposals received and may seek clarification from any proposer about any ambiguous statement in the proposal. FTA may request additional documentation or information to be considered during the evaluation process, and may conduct pre-selection site visits. After a thorough evaluation of all eligible proposals, the TEP will recommend the selected institution(s) to the FTA Administrator or designee. The FTA Administrator or designee will determine the institution(s) that will receive award(s) under LoNo-CAP through FY 2020, dependent on annual reviews, and in the event that more than one institution is selected, the amount of funding allocated to each.

2. Evaluation Criteria

Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed:

Program Approach

- Description of and rationale for the types of tests and specific components to be tested; at a minimum, tests must assess maintainability, reliability, performance, structural integrity, efficiency, and noise
- Which tests will not be offered and why
- How the tests included in the proposed program support the LoNo-CAP Program goals, in particular how they support deployment of the cleanest and most energy-efficient buses
- Description of testing procedures
- Projected schedule for performing tests in the first year, and subsequent years; highlighting any plans for phasing-in new tests
- Plan for coordinating with FTA, Altoona, bus OEMs, suppliers, transit industry, and other testing facilities and programs including any other LoNo-CAP testing facility(s)
- Proposed outreach and industry coordination efforts to encourage use of the facility and testing capabilities
- Descriptions of any innovative aspects of the proposed approach, their benefits, and risks

Organizational Capacity

- Qualifications and experience of key staff
- Commitment of key staff to testing center
- Description of existing and planned facilities and equipment. Applicants must demonstrate that they have direct access to or a partnership with a testing facility capable of emulating real-world circumstances in order to test low or no emission components installed on the intended transit bus
- Skills and availability of supporting staff
- Workforce development plan
- Executive commitment of institution to supporting the testing activity/center
- Technical, legal, and financial capacity
- Sufficiency of commitment of organizational team members (attach memorandum of understanding, letters of commitment, or other documentation)

Program and Risk Management Plan

- Proposed schedule of test fees, and process for reviewing and updating fees throughout the program to account for new equipment needs and changing costs
- Projections for anticipated types and quantities of tests per year, and if applicable, maximum and minimum number of tests that can be performed per year
- Rationale for establishing the fees to account for maintaining and operating the facility
- Additional funding that may be available to support the program

Data Reporting and Dissemination

- Description of component test reports content and format
- Description of method(s) of component test reports dissemination

- Method of preparing Annual Report to Congress
- Description of searchable 508-compatible Database (if proposed)

Commitment to Accreditation, Codes, and Standards

- Description of accreditations now held, being pursued, or planned
- Description of use of codes and standards for test standardization
- Description of use of codes and standards to promote safety
- Commitment to participation in developing future codes and standards

F. Federal Award Administration

1. Federal Award Notice

Subsequent to an announcement by the FTA Administrator or designee of the final selection(s) posted on the FTA Web site, FTA will publish a list of the selected facility or facilities.

All information submitted as part of or in support of LoNo-CAP shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission includes information the applicant considers to be trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI)"; (2) mark each affected page "CBI"; and (3) highlight or otherwise denote the CBI portions. FTA protects such information from disclosure to the extent allowed under applicable law. In the event that FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide applicant timely notice of such order to allow the applicant the opportunity to challenge such an order. FTA will not challenge a court order on behalf of applicant.

2. Award Administration

The successful applicant(s) will receive an award through FTA's Transit Award Management System (TrAMS) as either a Cooperative Agreement, Grant Agreement, or Contract, at FTA's discretion. The FTA Office of Research, Demonstration and Innovation will manage project agreements. The selected institution(s) will submit itemized quarterly invoices for the tests performed during the previous quarter, and FTA will reimburse the institution(s) for 50 percent of the established testing fees for those tests performed and properly documented. FTA reserves the right to monitor and review awards quarterly to ensure awarded funds are commensurate with level of testing being conducted and amend awarded funds, as needed.

Applicants must sign and submit current Certifications and Assurances before FTA may award funding under a Cooperative Agreement, Grant Agreement, or Contract for a competitively selected project. If the applicant has already submitted the annual Certifications and Assurances for the fiscal year in which the award will be made in TrAMS, they do not need to be resubmitted.

FTA reserves the right to request an adjustment of the project scope and budget of any proposal selected for funding. Such adjustments shall not constitute a material alteration of any aspect of the proposal that influenced the proposal evaluation or decision to fund the project.

Further, FTA reserves the right to name any or all proposed organizational team members as a "Key Partner" and to make any award conditional upon the participation of the "Key Partner." A "Key Partner" is essential to the project as approved by FTA and, is, therefore, eligible for a noncompetitive award by the project sponsor to provide the goods or services described in the proposal. Participation by members of the "Key Partner" on a selected project may not later be substituted without FTA's approval.

3. Administrative and National Policy Requirements

Except as otherwise provided in this NOFO, grants, contracts or cooperative agreements are subject to the requirements of 49 U.S.C. 5312 as described in the latest FTA Research Circular, currently 6100.1E, "Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines." In particular, the recipient(s) of a LoNo-CAP award must submit quarterly Federal Financial Reports and Milestone Progress Reports in TrAMS.

4. Reporting, Data and Information Exchange, and Data Requirements

In order to achieve a comprehensive understanding of the impacts and implications of LoNo-CAP, FTA, or its designated independent evaluator, will require direct access to project data. Projects should include a data capture component that allows for the reliable and consistent collection of information relevant to gauging the impact and outcomes of the component assessments.

At any time during the period of performance, the project team may be requested to coordinate data collection activities in order to provide interim information under the requirements of this award. A project team may be asked to provide the data directly to FTA or to a designated independent evaluator. This information, if requested, will be used to conduct program evaluations during the execution of the project and after it has been completed.

LoNo-CAP awardees may be asked to participate in and/or host transit industry-related information exchange meetings, conferences, webinars, or outreach events at their own expense to share information with the transit industry and stakeholders on the progress and results of component assessments and related impacts.

G. Federal Awarding Agency Contacts

For further information concerning this NOFO, please contact Research Office staff via email at *LoNo-CAP@dot.gov,* or directly call Marcel Belanger, Bus Testing Program Manager, at (202) 366–0725. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's Web site. To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact FTA directly, rather than through intermediaries or third parties, with questions. FTA staff may also conduct briefings on the LoNo-CAP discretionary selection and award process upon request.

H. Other Information

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA Circulars, and other Federal administrative requirements in carrying out any project supported by the FTA agreement. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the agreement executed with FTA for its project. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time-to-time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

Carolyn Flowers,
Acting Administrator.

[FR Doc. 2016–23504 Filed 9–28–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0087]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0083]

Notice of Availability of a Draft Environmental Assessment for Rulemaking To Require the Installation and Maintenance of Speed Limiting Devices in Heavy Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of availability; request for comments.

SUMMARY: NHTSA and FMCSA announce the availability of a Draft Environmental Assessment (EA) to evaluate the potential environmental impacts of proposed regulations requiring the installation of vehicle speed limiting devices in new heavy vehicles and maintenance of a maximum speed setting by motor carriers operating affected vehicles. The Draft EA was prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's (CEQ) regulations implementing NEPA, U.S. DOT Order 5610.1C, NHTSA's NEPA implementing regulations, and FMCSA's NEPA Order 5610.1. Interested persons are invited to comment on the Draft EA.

DATES: You should submit your comments early enough to ensure that the docket receives them not later than November 7, 2016.

ADDRESSES: You may submit comments on the Draft EA, bearing the Federal Docket Management System Docket IDs [NHTSA–2016–0087] or [FMCSA–2014–0083] using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Each submission must include the Agencies' names and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the "Privacy Act" heading below.

You may call the Docket at 202–366–9324.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* or the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

FOR FURTHER INFORMATION CONTACT:

NHTSA: Mr. Markus Price, Chief, Visibility and Injury Prevention Division, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–1810.

FMCSA: Ms. Andrea Pahlevanpour, Environmental Program Analyst, Regulatory Evaluation Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–5370.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to NEPA, NHTSA and FMCSA have prepared a Draft EA analyzing the potential environmental impacts of the agencies' proposed rulemaking regarding the installation and maintenance of speed limiting devices in heavy vehicles. *See* 81 FR 61942 (Sep. 7, 2016). Specifically, the proposal requires all newly manufactured U.S. trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating more than 11,793.4 kilograms (26,000 pounds) to be equipped with a speed limiting device set to a designated speed. Further, under the proposal, motor carriers operating commercial vehicles in interstate commerce would be responsible for maintaining the speed limiting devices at or below the designated speed for the service life of the vehicle. Although the agencies do not propose the designated speed for the speed limiting devices to be set, the agencies considered the benefits and costs of four alternatives in the proposal: 60 mph, 65 mph, 68 mph maximum speeds and the No Action Alternative of not requiring the installation of speed limiters in heavy vehicles. At this time, the agencies have not selected a preferred alternative and seek public comment on the specified maximum speed level to require in the final rule.

Environment

NEPA (42 U.S.C. 4321–4347) requires Federal agencies to integrate environmental values into their decision-making processes by requiring Federal agencies to consider the potential environmental impacts of their proposed actions. In accordance with NEPA, CEQ's regulations implementing NEPA (40 CFR parts 1500–1508), U.S. DOT Order 5610.1C, NHTSA's NEPA implementing regulations (49 CFR part 520), and FMCSA's NEPA Order 5610.1 (69 FR 9680 [Mar. 1, 2004]), NHTSA and FMCSA have prepared a Draft EA to outline the purpose and need for the proposed rulemaking, a reasonable range of alternative actions the agencies could adopt through rulemaking (in particular, the maximum specified speeds under consideration), and the projected environmental impacts of these alternatives.

NHTSA and FMCSA anticipate that the action alternatives will have negligible or no impact on the following resource and impact categories: (1) Topography, geology, and soils; (2) water resources (including wetlands and floodplains); (3) biological resources; (4) resources protected under the Endangered Species Act; (5) historical and archeological resources; (6) farmland resources; (7) environmental justice; and (8) resources protected under 49 U.S.C. 303 ("Section 4(f)" properties). The impact areas that may be affected and were evaluated in the Draft EA include air quality and greenhouse gas emissions; socioeconomics; public health and safety; solid waste; hazardous materials; and fuel savings.

NHTSA and FMCSA invite interested parties to comment on the Draft EA by following the instructions under **ADDRESSES** above. The Draft EA is available on both agencies' Web sites at *http://www.nhtsa.gov/* and *http://www.fmcsa.dot.gov/* or on the public docket at *http://www.regulations.gov* (Docket No. NHTSA–2016–0087–0003 and Docket No. FMCSA–2014–0083–0002).

Subject to public notice and comment, NHTSA and FMCSA anticipate issuing a Finding of No Significant Impact (FONSI) related to this action.

Issued pursuant to authority delegated in 49 CFR 1.81, 1.95, and 501.8 on: September 22, 2016.

Raymond R. Posten,

Associate Administrator for Rulemaking, National Highway Traffic Safety Administration.

Issued pursuant to authority delegated in 49 CFR 1.81 and 1.87 on: September 22, 2016.

Larry W. Minor,

Associate Administrator for Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2016–23486 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0093; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: General Motors, LLC (GM), has determined that certain model year (MY) 2016–2017 Cadillac CTS, CT6, XTS and Escalade motor vehicles do not fully comply with paragraph S5.5.5(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems.* GM filed a report dated August 17, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* GM then petitioned NHTSA under 49 CFR part 556 for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

DATES: The closing date for comments on the petition is October 31, 2016.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and their implementing regulations at 49 CFR part 556, GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Affected are 46,205 of the following MY 2016–2017 Cadillac motor vehicles manufactured between March 10, 2015, and June 13, 2016:

- Cadillac CT6
- Cadillac CTS
- Cadillac Escalade
- Cadillac Escalade ESV
- Cadillac XTS

III. *Noncompliance:* GM explains that the noncompliance is that when the parking brake is applied on the subject vehicles the telltale light that illuminates within the cluster does not meet the lettering height requirements as specified in paragraph S5.5.5(a) of FMVSS No. 135 and also referenced in table 1; column 1, of FMVSS No. 101. Specifically, the lettering height for the telltale on the subject vehicles is 2.44 mm when it should be a minimum height of 3.2 mm.

IV. *Rule Text:* Paragraph S5.5.5(a) of FMVSS No. 135 states, in pertinent part:

> S5.5.5 Labeling. (a) Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and this section, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (⅛ inch) high and the letters and background shall be of contrasting colors, one of which is red . . .

V. *Summary of GM's Petition:* GM described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM submitted the following reasoning:

(a) The park brake applied telltale (identified by the word "PARK") is red in color contrasted against a black screen, as required by S5.5.5(a) and (d)(4), conspicuously located and readily visible at the top left-of-center position of the instrument panel cluster. Additionally, the four letters of the word "PARK" are all capitalized such that the 2.44 mm height is preserved across the width of the word.

(b) In addition to the park brake applied telltale required by FMVSS No. 135, all of the affected vehicles also have a driver information center (DIC) message "Park Brake Set" that illuminates when the parking brake is applied. The lettering height of this DIC message is 3.24 mm, greater than the 3.2 mm minimum specified for visual indicators in FMVSS No. 135. The DIC message is also substantially wider than the typical width of the telltale required by the standard. The redundant telltale and the DIC message, assure ample communication to the driver that the parking brake is applied.

(c) The operation and performance of the park brake itself is unaffected by this telltale condition. The park brake complies with all applicable requirements of FMVSS No. 135.

(d) The NHTSA has previously granted inconsequential treatment for labeling issues across various motor vehicle safety standards, including for discrepancies involving lettering height, missing information, incorrect information, and misplaced or obscured information. For example, two comparable petitions for inconsequential treatment involving brake telltale lettering height were granted to Kia and Hyundai (reference Docket numbers "NHTSA–2004–17439", Notice 2 and "NHTSA–2004–17439" (sic), Notice 2, published in the **Federal Register** on July 8, 2004, and July 9, 2004, respectively). The Kia petition cited multiple previous petitions for inconsequential treatment for brake telltale noncompliance granted by NHTSA, and we ask to incorporate them here by reference.

(e) After searching VOQ, TREAD and internal GM databases, GM is not aware of any crashes, injuries, or customer complaints associated with this condition.

(f) GM has corrected this condition in production. All vehicles produced after June 13, 2016, comply with the telltale lettering height specified in FMVSS No. 135.

GM concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–23560 Filed 9–28–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Publication 1345

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Publication 1345, Handbook for Authorized IRS e-file Providers.

DATES: Written comments should be received on or before November 28, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Publication 1345, Handbook for Authorized IRS e-file Providers.

OMB Number: 1545–1708.

Publication Number: 1345.

Abstract: Publication 1345 informs those who participate in the IRS e-file Program for Individual Income Tax Returns of their obligations to the Internal Revenue Service, taxpayers, and other participants.

Current Actions: There are no changes being made to the publication at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200,000.

Estimated Number of Responses: 129,655,713.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 6,023,762.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23596 Filed 9–28–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8316

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8316, Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

DATES: Written comments should be received on or before November 28, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Regarding Request for Refund of Social Security Tax Erroneously Withheld on Wages Received by a Nonresident Alien on an F, J, or M Type Visa.

OMB Number: 1545–1862.

Form Number: 8316.

Abstract: Certain foreign students and other nonresident visitors are exempt from FICA tax for services performed as specified in the Immigration and Naturalization Act. Applicants for refund of this FICA tax withheld by their employer must complete Form 8316 to verify that they are entitled to a refund of the FICA, that the employer has not paid back any part of the tax withheld and that the taxpayer has attempted to secure a refund from his/her employer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 22,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 5,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23593 Filed 9–28–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2006–42

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2006–42, Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures.

DATES: Written comments should be received on or before November 28, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

OMB Number: 1545–2040. Revenue Procedure Number: Revenue Procedure 2006–42.

Abstract: This revenue procedure provides administrative guidance under which a taxpayer may obtain automatic consent to change (a) from the fair market value method or from the alternative tax book method to apportion interest expense or (b) from the sales method or the optional gross income methods to apportion research and experimental expenditures.

Current Actions: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions, and individuals or households.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 21, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23591 Filed 9–28–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Tribal Health Programs—Community Care Consolidation

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Tribal Consultation.

SUMMARY: The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) will facilitate a Tribal Consultation on the VHA's effort to improve continuity of care and health care access for Veterans by consolidating multiple community care programs, previously known as non-VA care, into one standard program with standard rates. In October 2015, VA submitted to Congress the *Plan to Consolidate Programs of Department of Veterans Affairs to Improve Access to Care, http://www.va.gov/opa/publications/VA_Community_Care_Report_11_03_2015.pdf,* which lays out the vision for a consolidated community care program that is easy to understand, simple to administer, and meets the needs of Veterans, community providers, and VA staff. As VA continues to move forward with implementing the vision of the *Plan,* we again seek tribal input to assist VA in developing the network of providers in a manner that would build on VA's existing relationships with tribal health programs and facilitate future collaboration to improve health care services provided to all eligible, VA-enrolled Veterans, regardless of whether they are eligible for Indian Health Service-funded health care or not. We are seeking tribal consultation regarding the tribal health programs' participation in the core provider network, as outlined in the *Plan,* and potentially transitioning from the current reimbursement agreement structure to a model under which tribal health programs deliver care to all eligible, VA enrolled Veterans using a standard reimbursement rate based on Medicare rates.

DATES: Comments must be received by VA on or before November 5, 2016.

ADDRESSES: Written comments should be submitted by email at *Tribalgovernmentconsultation@va.gov,* by fax at 202–273–5716, or by mail at U.S. Department of Veterans Affairs, Suite 915L, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Majed Ibrahim, VA Office of Community Care, VHA at (562) 400–3134 (this is not a toll-free number), or by email at *majed.ibrahim@va.gov.*

SUPPLEMENTARY INFORMATION: VA is seeking consultation and comments on the following questions:

(1) What would be the impact of transitioning from the existing reimbursement agreement structure, which requires each tribe to enter into an individual reimbursement agreement with VA, to a standard arrangement for reimbursement of direct care services provided to eligible Veterans managed by a third party administrator for VA?

(2) Would tribal health programs be interested in expanding direct care services under this new structure to include reimbursements for care provided to all Veterans enrolled in VA health care, regardless of whether they are eligible for IHS-funded health care or not?

(3) Would tribal health programs be interested in receiving standard reimbursement rates based on Medicare rates plus a feasible percentage of those rates to minimize improper payments and comply with industry standards?

(4) Would tribal health programs be interested in extending existing reimbursement agreements between VA and tribal health programs through December 2018 and ensuring any new reimbursement agreements between VA and tribal health programs extend through December 2018, as VA works in collaboration with tribes and other VA stakeholders on implementing a consolidated community care program?

Tribal leaders and/or their designated representatives and other interested parties are invited to attend and provide comments during the in-person consultation and/or submit written comments.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Approved: September 23, 2016.

Jeffrey M. Martin

Program Manager, Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2016–23483 Filed 9–28–16; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Thursday,
No. 189 September 29, 2016

Part II

Environmental Protection Agency

40 CFR Part 63
Mercury and Air Toxics Standards (MATS) Completion of Electronic Reporting Requirements; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2009–0234; FRL–9951–63–OAR]

RIN 2060–AS75

Mercury and Air Toxics Standards (MATS) Completion of Electronic Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend the electronic reporting requirements for the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired electric utility steam generating units (also known as the Mercury and Air Toxics Standards (MATS)). This proposed rule would revise and streamline the electronic data reporting requirements of MATS (both for owners or operators of electric utility steam generating units (EGUs) who use performance stack testing and EGU owners or operators who use continuous monitoring to demonstrate compliance) and would increase data transparency. EGU owners or operators would use one familiar electronic reporting system, instead of two separate systems, reducing their burden. In addition, the public and regulatory authorities would have enhanced access to MATS data. Finally, no new continuous monitoring requirements are proposed by this action. Overall, this proposed rule would serve to ease burden, increase MATS data flow and usage, make it easier for inspectors and auditors to assess compliance, and encourage wider use of continuous emissions monitoring systems (CEMS) for MATS compliance.

DATES: Comments must be received on or before October 31, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0234, to the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

Instructions: All submissions must include the agency name and respective docket number or Regulatory Information Number for this proposed rulemaking. Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0234. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. (See section II.B. below for instructions on submitting information claimed as CBI.) The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment through *www.regulations.gov*, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/dockets.htm*.

Docket: The EPA has established a docket for this proposed rulemaking under Docket ID No. EPA–HQ–OAR–2009–0234. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publically available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; email address: *parker.barrett@epa.gov*.

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I. Why is the EPA issuing this proposed rule?

The EPA is issuing this proposed rule to streamline the electronic data reporting requirements in MATS; to increase data transparency by making more of the MATS data available in Extensible Markup Language (XML) format; to amend the reporting and recordkeeping requirements associated with performance stack tests, particulate matter (PM) and hydrogen chloride (HCl) CEMS, and PM continuous parameter monitoring systems (CPMS); and to make minor clarifications and corrections to the mercury (Hg) and HCl monitoring provisions, which were brought to our attention following publication of the MATS Technical Correction Rule (see 81 FR 20172, April 6, 2016).

These proposed amendments would revise the recordkeeping and reporting requirements of MATS, in response to concerns raised by the regulated community. Section 63.10031 of the original MATS required affected EGU owners or operators to report MATS emissions and compliance information electronically using two data systems (see 77 FR 9304, February 16, 2012). Paragraph (a) of § 63.10031 required those EGU owners or operators who demonstrate compliance by continuously monitoring Hg and/or HCl and/or hydrogen fluoride (HF) emissions to use the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool to submit monitoring plan information, quality assurance test results, and hourly emissions data in accordance with appendices A and B to subpart UUUUU of 40 CFR part 63. Paragraph (f) of § 63.10031 required performance stack test results, performance evaluations of Hg, HCl, HF, sulfur dioxide (SO_2), and PM CEMS, 30-boiler operating day rolling average values for certain parameters, notifications of compliance status, and semiannual compliance reports to be submitted to the EPA's WebFIRE database via the Compliance and Emissions Data Reporting Interface (CEDRI).

Subsequent to the publication of MATS, stakeholders suggested to the EPA that the electronic reporting burden of MATS could be significantly reduced if all of the required information were reported to one data system instead of two. The stakeholders also suggested that using one data system would benefit the EPA and the public in their review of MATS data, because the information would be reported in a consistent format. In view of these considerations, the stakeholders urged the EPA to consider amending the MATS rule to require all of the data to be reported through the ECMPS, a familiar data system that most EGU owners or operators have been using since 2009 to meet the electronic reporting requirements of the Acid Rain Program.

After careful consideration of the stakeholders' recommendations, the EPA concluded that the increased transparency of the emissions data and the reduction in reporting burden that could be achieved through the use of a single data system are consistent with Agency priorities. As a result, late in 2014 the EPA decided to take the necessary steps to require all of the electronic reports required by MATS to be submitted through the ECMPS Client Tool. Those steps would include revising MATS, modifying the ECMPS Client Tool, creating a detailed set of reporting instructions, and beta testing the modified software. Recognizing that insufficient time was available to complete these tasks before the initial compliance date for MATS (April 16, 2015), the Agency embarked on a two-phased approach to complete them.

The first phase has been completed. The EPA published a final rule requiring EGU owners or operators to suspend temporarily (until April 16, 2017) the use of the CEDRI interface as the means of submitting the reports described in § 63.10031(f) introductory text, (f)(1), (f)(2), and (f)(4). Instead, EGU owners or operators must use the ECMPS Client Tool to submit Portable Document Format (PDF) versions of these reports on an interim basis (see 80 FR 15510, March 24, 2015). The specific reports to be submitted in PDF format include: Performance stack test reports which must contain enough information to assess compliance and to demonstrate that the testing was done properly (*e.g.,* such information as would be provided by the Electronic Reporting Tool (ERT); relative accuracy test audit (RATA) reports for SO_2, HCl, HF, and Hg CEMS; RATA reports for Hg sorbent trap monitoring systems; response correlation audit (RCA) and relative response audit (RRA) reports for PM CEMS; 30-boiler operating day rolling average reports for PM CEMS, PM CPMS, and approved hazardous air pollutants (HAP) metals CEMS; Notifications of Compliance Status; and semiannual compliance reports. Section 63.10031(f)(6) of the March 24, 2015, final rule requires each PDF version of a submitted interim report to include information that identifies the facility (name and address), the EGU(s) to which the report applies, the applicable rule citation, and other information. The rule further specifies that in the event that implementation of the single data system initiative cannot be completed by April 16, 2017, the electronic reporting of MATS data will revert to the original two systems approach on and after that date.

In the preamble to the March 24, 2015, final rule, the EPA outlined the second phase of the single data system initiative, which would be executed during the interim PDF reporting period. In phase two: (1) The Agency would publish a direct final rule, requiring MATS-affected sources to use the ECMPS Client Tool to submit all required reports in a structured XML format with specific data elements for each type of report; and (2) a detailed set of reporting instructions would be developed and ECMPS would be modified accordingly, in order to receive and process the data.

The EPA has been working diligently to compile the required data elements, to develop reporting instructions, and to prepare program modifications; however, after considering the magnitude of the rule changes that would be required to execute phase two, coupled with the need to specify data elements to be reported electronically for PM CEMS, PM CPMS, and HCl CEMS, the EPA expects that some stakeholders will want to have an opportunity to review and provide comment on these proposed changes. Therefore, the EPA concluded that in this instance notice and comment rulemaking involving both a proposed rule and a final rule is a better approach than a direct final rulemaking.

II. General Information

A. Does this proposed rule apply to me?

Categories and entities potentially affected by this proposed action include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired EGUs.
Federal government	[2] 221122	Fossil fuel-fired EGUs owned by the Federal government.
State/local/Tribal government	[2] 221122	Fossil fuel-fired EGUs owned by municipalities.

Category	NAICS code [1]	Examples of potentially regulated entities
	921150	Fossil fuel-fired EGUs in Indian country.

[1] North American Industry Classification System.

[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this proposed action. To determine whether your facility, company, business, organization, etc., would be regulated by this proposed action, you should examine the applicability criteria in 40 CFR 63.9981. If you have any questions regarding the applicability of this proposed action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27711, and Attention Docket ID No. EPA–HQ–OAR–2009–0234.

C. What is the scope of these proposed amendments?

This proposed rule would extend the interim PDF reporting process described in § 63.10031(f) from April 16, 2017, to December 31, 2017. In addition, this proposed rule would amend the reporting requirements in § 63.10031 of the MATS regulation, and, for consistency with those changes, would amend related texts in §§ 63.10011, 63.10021, and 63.10032, and in Tables 3, 8, and 9 to 40 CFR part 63, subpart UUUUU. The recordkeeping and reporting sections of appendix B would be amended [1] and three new appendices would be added to the rule, *i.e.,* appendices C, D, and E. The interim PDF format reporting period would be extended in order to finalize this proposed rule and to complete modifications to the ECMPS Client Tool, to develop reporting instructions, and to allow data acquisition and handling system vendors to adapt to the changes.

While the changes in this proposed rule will take time to implement, no significant impact on stakeholders is expected. The set of data elements for performance stack tests and continuous monitoring system (CMS) performance evaluations would remain unchanged; only the reporting format and mechanism would change. Rather than requiring submission of these data via CEDRI, EGU owners or operators would use the ECMPS Client Tool to report in XML format, generated either by using the ERT or by other appropriate means.

In addition to reporting the MATS data through the ECMPS Client Tool, EGU owners or operators would be required to use the ECMPS to report hourly data and quality assurance test results for PM CEMS and hourly response data for PM CPMS in XML format (if those compliance options were selected) and to provide quarterly, rather than semiannual, compliance reporting.

This proposed rule would reduce the excess emissions reporting requirements for all instrumental monitoring except PM CPMS. Instead of reporting only excess emissions, EGU owners or operators would be required to report all of the 30- (or 90-) boiler operating day rolling average emission rates on a quarterly basis for EGUs that use CEMS or sorbent trap monitoring systems to demonstrate compliance with MATS. This represents a shift away from exception-only reporting to continuous compliance reporting.

As previously noted, new HCl CEMS reporting and recordkeeping requirements would be added to appendix B for the certification and QA tests required by PS 18 and QA Procedure 6. These proposed requirements are not expected to increase the burden because multiple compliance options are available for demonstrating compliance with HCl emission limits (*e.g.,* HCl quarterly stack testing or HCl monitoring using Fourier Transform Infrared (FTIR) CEMS in accordance with PS 15, and SO_2 monitoring as a surrogate for HCl). Therefore, if EGU owners or operators anticipate that implementing PS 18 and Procedure 6 as a means of demonstrating compliance determination is too burdensome, other existing compliance determination approaches may be used.

D. What is the purpose of these proposed amendments?

These amendments are being proposed to revise and streamline the electronic reporting requirements of MATS; to increase transparency of MATS emissions data; to reduce the reporting burden via the use of a single reporting system; to amend the reporting requirements for PM CEMS, PM CPMS, Hg CEMS, and Hg sorbent trap monitoring systems; to specify the recordkeeping and reporting requirements associated with the use of PS 18 and Procedure 6 for HCl CEMS; and to make minor clarifications and corrections to the HCl and Hg monitoring provisions.

E. What specific amendments to subpart UUUUU would be made by this proposed rule?

The proposed amendments are discussed in detail in the paragraphs below.

1. Proposed Revisions to Reporting Requirements in § 63.10031

The reporting section of MATS, *i.e.,* § 63.10031, would be amended as follows:

(a) ECMPS would be designated as the exclusive data system for MATS reporting.

(b) The interim PDF reporting process described in § 63.10031(f) would end on

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[1] The EPA has recently published a technology-neutral performance specification and associated quality assurance (QA) test procedures for HCl monitors (see Performance Specification 18 (PS 18) and Quality Assurance Procedure 6 (Procedure 6) in 80 FR 38628, July 7, 2015). This proposed rule would add recordkeeping and electronic reporting requirements for sources electing to monitor HCl according to PS 18 and Procedure 6.

December 31, 2017, to allow for an orderly transition away from the interim process at a calendar year boundary. Compliance with the emissions and operating limits during the interim period would be assessed based on the various PDF report submittals, Notifications of Compliance Status, and the data from Hg, HCl, HF, or SO_2 CEMS or Hg continuous sorbent trap monitoring reported through the ECMPS Client Tool (see § 63.10031(e)(1)).

(c) Although the interim PDF reporting process described in § 63.10031(f) would be discontinued as of December 31, 2017, in order to properly close out that process, PDF submittals would still be accepted for reports required under paragraph (f) introductory text, (f)(1), (f)(2), or (f)(4) if the deadlines for submitting those reports extend beyond that date. As an example, the last semiannual report to use the interim PDF reporting process would be the report covering the period July 1 to December 31, 2017; such a report would be due by January 31, 2018.

(d) Revised paragraph (f)(2) would require quarterly reporting of all 30- or 90-boiler operating day rolling average emission rates for units monitoring Hg, HCl, HF, and/or SO_2 emissions, and for units using emissions averaging, starting with a report covering the first quarter of 2018. This change would be consistent with the requirement in § 63.10031(f)(2) of the current rule for quarterly reporting of 30-boiler operating day rolling averages for EGUs using PM CEMS, PM CPMS, and approved HAP metals CEMS.

(e) Until the interim reporting period ends on December 31, 2017, the 30-boiler operating day rolling averages for PM CEMS, PM CPMS, and approved HAP metals CEMS would continue to be reported quarterly in PDF format, in accordance with § 63.10031(f)(2). Then, starting with the first quarter of 2018, the 30- or 90-boiler operating day rolling averages for all parameters (including Hg, HF, HCl, and SO_2) would be reported in XML format in quarterly compliance reports, as discussed in section II.E.1.j of this preamble, below.

(f) Paragraphs (a)(1), (2), and (5) in revised § 63.10031 of this proposed rule would clarify the electronic reporting requirements for the Hg, HCl, HF, SO_2, and auxiliary CMS. Specifically:

(i) Paragraph (a)(1) would require the electronic reporting requirements of appendix A to be met if Hg CEMS or sorbent trap monitoring systems are used.

(ii) Paragraph (a)(2) would require the electronic reporting requirements of appendix B to be met, with one important qualification, if HCl or HF monitoring systems are used. Until January 1, 2018, if PS 18 in part 60, appendix B, is used to certify an HCl monitor and Procedure 6 in part 60, appendix F, is used for on-going QA of the monitor, EGU owners or operators would report temporarily only data that the existing programming of ECMPS is able to accommodate, *i.e.*, hourly HCl emissions data and the results of daily calibration drift tests and RATAs; records would be kept of all of the other required certification and QA tests and supporting data. The reason for this temporary, limited reporting is that PS 18 and Procedure 6 were not published until July 7, 2015; therefore, it was not possible to specify recordkeeping and reporting requirements for them in the original version of appendix B. Now that PS 18 and Procedure 6 have been finalized, this proposed rule would add the necessary recordkeeping and reporting requirements, and the interim reporting for HCl would be discontinued as of December 31, 2017 (for further discussion, see section II.E.4 of this preamble).

(iii) Paragraph (a)(5) would clarify the electronic reporting requirements for the SO_2 CEMS and the auxiliary monitoring systems.

(iv) Paragraph (f)(3) would be removed and reserved for consistency with the changes described in items (i) through (iii), immediately above.

(g) Paragraphs (b)(2) and (4) would be revised to remove references to postmark dates for submittal of semiannual compliance reports; these reports currently are, and would continue to be, submitted electronically through ECMPS in PDF format.

(h) The provision in paragraph (b)(5) which would allow affected EGU owners or operators to follow alternate submission schedules for semiannual compliance reports would be removed. The uniform submission schedule described in § 63.10031(b)(1)–(4) would be required for all affected EGUs, so that compliance with this reporting requirement can easily be tracked.

(i) Revised paragraph (b)(5) would further require EGU owners or operators to discontinue submission of semiannual compliance reports when the interim PDF reporting period ends; the final semi-annual report would cover the period from July 1 through December 31, 2017.

(j) EGU owners or operators would submit quarterly compliance reports in lieu of the semiannual reports, starting with reports covering the first calendar quarter of 2018 (see § 63.10031(g)). The quarterly compliance reports plus attachments would consolidate other reports that were originally required to be submitted separately on different time tracks, *i.e.*, performance stack test results and quarterly reports of 30- and 90-boiler operating day rolling averages. The quarterly compliance reports would be due within 60 days after the end of each calendar quarter; we believe that this allows sufficient time to receive the results of tests performed at or near the end of the quarter. Each quarterly compliance report submitted would include the applicable data elements listed in sections 2 through 13 of proposed appendix E to subpart UUUUU of 40 CFR part 63.

The operator's MATS compliance strategy would determine which appendix E data elements would be included in each quarterly compliance report. If continuous emission monitoring is used to demonstrate compliance on a 30-boiler operating day rolling average basis, the quarterly compliance report would include all of the 30-day averages calculated during the quarter. If emissions averaging is used, EGU owners or operators would report all of the 30- or 90-group boiler operating day weighted average emission rates (WAERs) calculated during the quarter. If periodic stack testing for compliance is performed (including 30-boiler operating day Hg Low Emitting Electric Utility Steam Generating Unit (LEE) tests), the EGU owner or operator would report a summary of each test completed during the calendar quarter and indicate whether the test has a special purpose (*i.e.*, if it were to be used to establish LEE status or for emissions averaging).

Note that for all cases in which the EPA reference methods supported by the ERT are used to perform particular stack tests, the EGU owner or operator would be required to provide the data elements specific to the test method(s) used, in XML format, as an attachment to the compliance report. The data elements common to all tests and specific data elements for the various reference methods are listed in sections 17 through 21 of proposed appendix E. This information is already required by MATS, just in another format, and is essential for ensuring that performance tests are conducted properly; confirming the reported values; and developing emission factors, as well as other Agency purposes.

The quarterly compliance reports would retain and incorporate the following features of the semiannual compliance reports: (1) The date of the last boiler tune-up; (2) the date of the last burner inspection; (3) monthly fuel usage data; (4) malfunction information;

(5) reporting of deviations; and (6) emergency bypass information.

The quarterly compliance reports move away from traditional excess emissions reporting for those EGU owners or operators who choose to use Hg, SO_2, HF, or HCl CEMS or sorbent trap monitoring systems to demonstrate compliance. Currently, those EGU owners or operators must provide the excess emissions and monitor downtime data described in § 63.10(e)(3)(v) and (vi) in PDF format as part of their semiannual compliance reports. The information to be reported includes, among other things, identification of excess emissions periods, identification of periods when the monitoring was inoperative or out of control, the reasons for the excess emission and monitor downtime periods, the nature and cause of any malfunctions, corrective actions or preventative measures taken, description of repairs or adjustments to inoperative or out-of-control CMS, the total amount of EGU operating time in the reporting period, and the excess emissions and monitor downtime percentages. As explained above, the proposed amendments would, instead, require all of the 30- (or 90-) boiler operating day rolling averages or WAERs to be included in the quarterly reports. Note, however, that some excess emissions information would still be included in the compliance reports. Specifically, the proposed revisions to § 63.10031(d) would require reporting of the range of dates and the cause (if known) of each excess emission, as defined in § 63.10042, and any corrective actions taken. For Hg, HCl, HF, PM, and SO_2 CEMS and for sorbent trap monitoring systems and PM CPMS, the percent monitor availability (PMA) at the end of the quarter and the lowest hourly PMA recorded during the quarter would also be reported. All CMS except for PM CPMS would be subject to these revised excess emissions reporting requirements, which would take effect in 2018. EGU owners or operators using PM CPMS would continue to report the information in § 63.10(e)(v) and (vi) in PDF format, as an attachment to the quarterly compliance report.

Finally, if an EGU relies on paragraph (2) of the definition of startup given in § 63.10042, the information in § 63.10020(e), which is referenced in § 63.10031(c)(5), would be reported quarterly in PDF format, as an attachment to the compliance report. Note that the EPA understands that reporting this startup data in PDF format is not as transparent and user-friendly as it could be; therefore, we solicit comment on whether this information should be made more transparent and user-friendly. If so, we request comment on possible techniques to achieve those ends, *e.g.*, by requiring the data to be submitted in XML format.

We believe that consolidating information in quarterly compliance reports as described above, rather than requiring separate submittals of stack test results, 30- (or 90-) boiler operating day rolling average compliance reports, and semiannual reports that come in separately at different times during the year, would greatly simplify reporting and make it easier for inspectors and auditors to assess compliance with the standards. Also, quarterly, as opposed to semiannual, reporting would be advantageous because it would shorten significantly the interval between the time that a deviation or excess emission occurs and the time that the regulatory authority is made aware of the deviation or excess emission. Draft reporting instructions for the quarterly compliance reports are provided in the rule docket and on the Clean Air Markets Division (CAMD) Web site, for consideration.

(k) The requirements in § 63.10031(f)(1) and (6) to submit PDF reports of Hg, HCl, HF, and SO_2 RATAs, and RRAs and RCAs of PM CEMS would be discontinued for tests completed after December 31, 2017. For RATAs, RRAs and RCAs completed on or after January 1, 2018, the ECMPS Client Tool would be used to report the test results, as required under appendix A and/or B and/or C and/or 40 CFR part 75. The ECMPS Client Tool would also be used to attach the XML and PDF files that contain the applicable data elements and other information from sections 17 through 22 of proposed appendix E, which provide details of the reference method(s) used for each test, along with the electronic test results.

(l) Note that one additional PDF submittal would be required prior to January 1, 2018, and several other PDF submittals would still be required on and after January 1, 2018. Specifically, the following information would have to be provided in PDF format:

(i) A detailed report of the PS 11 correlation test, if the EGU owner or operator elected to use a certified PM CEMS to monitor PM emissions continuously, and recording valid data from the CEMS had begun prior to January 1, 2018. This report is due no later than December 31, 2017;

(ii) Any Notifications of Compliance Status issued on or after January 1, 2018;

(iii) The excess emissions summary report described in § 63.10(e)(3)(v) and (vi), if the EGU owner or operator elected to demonstrate compliance using a PM CPMS. As previously noted, this report would be submitted as an attachment to the quarterly compliance report.

(iv) For EGUs relying on paragraph (2) of the definition of startup given in § 63.10042, the parametric data and other information in § 63.10020(e), for startup and shutdown incidents. This information is currently provided in PDF format as part of the semiannual compliance report. As previously noted, starting with a report covering the first quarter of 2018, the data would be submitted as an attachment to the quarterly compliance report.

(v) For each test described in sections 14.1 through 14.3 of proposed appendix E, section 22 of appendix E would require the EGU owner or operator to provide additional information that is ordinarily included in test reports, but is incompatible with electronic reporting, such as diagrams showing the location of the test site and the sampling points, laboratory calibrations of source sampling equipment, calibration gas cylinder certificates, stack testers' credentials, etc. For performance stack tests, this information would be provided as an attachment to the quarterly compliance report. For RATAs, RRAs, RCAs, and PM CEMS correlations, the information would be provided along with the electronic (XML) test summary required under appendix A, B, C, or part 75 for SO_2 RATAs.

(m) To accommodate the required PDF reports, the applicable data elements in § 63.10031(f)(6)(i) through (xii) would be entered into the ECMPS Client Tool at the time of submission of each PDF file.

(n) Regarding performance stack test submittals, this proposed rule, as explained in item (j) above, would require a summary of the test results to be included in the quarterly compliance report, with detailed information about the reference method(s) used as an attachment to the quarterly report, in XML format. Similarly, the QA test submittals described in item (k) above would require an electronic summary of the test results to be generated, accompanied by a separate XML file that includes detailed information about the reference method(s) used. As proposed, the ECMPS Client Tool would be used to submit all of this information to the EPA, although ECMPS would not evaluate the detailed reference method information. Instead, those data would be transmitted directly to the Central Data Exchange where they could be further processed and evaluated. ECMPS would, however, perform electronic checking of the summarized RATA, RRA, and RCA results in a manner that is consistent with the way that QA test results are checked under the Acid Rain Program, and ECMPS would use the results of those evaluations for its assessment of the quality-assured status of the hourly Hg, HCl, HF, SO_2, or PM emissions data. In addition, ECMPS would perform basic checks of the information in the quarterly compliance reports, *e.g.,* checking for completeness and proper formatting, but would leave compliance assessment to others. The EPA intends for these data submissions to work together in a complimentary fashion to enable meaningful compliance determinations. It would be essential for any problems with the data that are identified by the reviewers to be communicated to all involved and resolved appropriately. For example, if, for a particular RATA, a review of the detailed reference method data shows that the reference method was not done properly, the RATA would be invalidated. This would necessitate invalidation of the hourly emissions data until a valid RATA was performed and passed, which would require resubmission of one or more quarterly emissions reports, recalculation of 30-day compliance averages, and possibly resubmission of a quarterly compliance report.

(o) Note that the existing ERT can produce a single XML file that includes all of the detailed reference method information necessary for the stack test and QA test reports described above. Therefore, there are two ways that the XML file could be generated that meet the reference method data submission requirements in sections 17–21 of appendix E; either use the ERT itself or another program that provides the data in an appropriate XML file format. In view of this, we solicit comment on whether submitting the detailed reference method data to ECMPS will actually reduce the reporting burden on EGU owners or operators, or whether submitting the data directly to CEDRI would be preferable.

2. Proposed Revisions to Rule Texts Associated With Reporting Requirements in § 63.10031

The proposed revisions to § 63.10031 necessitate changes to other sections of the rule to ensure that the rule is internally consistent. The affected rule sections are as follows:

(a) Revised § 63.10011(e) would require Notifications of Compliance Status for the initial and subsequent compliance demonstrations to be submitted in accordance with § 63.10030(e) and § 63.10031(f)(4) and proposed § 63.10031(h). This change is necessary to include all initial and subsequent compliance demonstration submissions. Both the interim reporting process described in § 63.10031(f)(4) and the proposed on-going reporting requirement in § 63.10031(h) require these Notifications to be submitted in PDF format, through ECMPS.

(b) Section 63.10011(g)(3), § 63.10021(h)(3) and (i), and three sentences in Table 3 to subpart UUUUU of 40 CFR part 63 (in Items 3 and 4) would be revised to be consistent with proposed § 63.10031(i). For EGU owners or operators relying on paragraph (2) of the definition of startup in § 63.10042, § 63.10031(i) would retain the requirement for the parametric data and other information referenced in § 63.10031(c)(5) to be included in the semiannual compliance reports, in PDF format, for startup and shutdown incidents that occur during the interim reporting period. However, in view of the proposed phase-out of the semiannual compliance reports, for startup and shutdown incidents that occur during each subsequent calendar quarter, starting with the first quarter of 2018, the information referenced in § 63.10031(c)(5) would be provided as a PDF attachment to the quarterly compliance report, due within 60 days after the end of the quarter.

(c) References to the EPA's ERT and the CEDRI interface would be removed from § 63.10021(f) and replaced with a general statement requiring all applicable notifications and reports to be submitted through ECMPS.

(d) The introductory text of § 63.10032(a) would be amended to include references to the recordkeeping required under proposed appendices C (for PM CEMS), D (for PM CPMS), and E (for the quarterly compliance reports, reference method test data elements, and other information). Also, in view of the move away from semiannual compliance reporting to quarterly reporting, the term "semiannual compliance report" in paragraph (a)(1) would be replaced with the more generic term "compliance report."

(e) Table 8 to subpart UUUUU of 40 CFR part 63 would be revised to be consistent with the amendments to § 63.10031 and the proposed addition of appendices C, D, and E.

(f) Finally, the recordkeeping requirement for excess emissions in the 28th row of Table 9 to subpart UUUUU of 40 CFR part 63, would be clarified.

3. Proposed Revisions to Appendix A

This proposed rule would make two corrections to the Hg monitoring provisions of appendix A. First, in the MATS Technical Corrections rule package, which was published on April 6, 2016 (see 81 FR 20172, April 6, 2016), there is language in section 4.1.1.5.2 of appendix A describing an alternate way to calculate and interpret RATA results when Hg emissions are less than 50 percent of the standard. This language was inadvertently carried over from the proposed rule and conflicts with the alternate relative accuracy specification in Table A–1 of the final rule. In view of this, we propose to delete that language. Second, at least one monitor vendor expressed confusion over an apparent inconsistency of the Hg RATA acceptance criteria in Table A–2 versus that in Table A–1. The vendor sought clarification of when the main 20-percent relative accuracy (RA) specification must be used and when the alternate specification applies. In Table A–2, it appears that the 20-percent RA specification only applies when the average CMS value (C_{avg}) is ≥2.5 micrograms per standard cubic meter (μg/scm) while the 20-percent RA specification in Table A–1 may be applied at any reference method concentration level and the alternate specification applies only when the average reference method value is <2.5 μg/scm. We acknowledge this inconsistency and propose to amend Table A–2 be consistent with Table A–1 and to clarify that the main RA specification may be applied at any concentration.

4. Proposed Revisions to Appendix B

For affected sources desiring to continuously monitor HCl emissions, the original version of appendix B required the monitoring system to be certified according to PS 15 in appendix B to 40 CFR part 60. However, PS 15 applies only to FTIR monitoring systems; therefore, the use of other viable HCl monitoring technologies was excluded. In view of this, the EPA regarded the requirement to use PS 15 exclusively as a temporary measure, until a technology-neutral performance specification for HCl monitors could be developed and published. In section 3.1 of appendix B, the Agency stated its intention to publish such a PS in the near future together with appropriate on-going QA requirements and to amend appendix B to accommodate their use. The required PS, (PS 18 in 40 CFR part 60, appendix B), and the on-going QA test requirements (Procedure 6 in 40 CFR part 60, appendix F) were published on July 7, 2015 (see 80 FR 38628, July 7, 2015).

Now that technology-neutral certification and QA test requirements for HCl monitors have been promulgated, EGU owners or operators are free to use any viable HCl monitoring technology that can meet the PS. However, in order for ECMPS to accommodate all of the required tests, additional time must be allotted for software development. In view of this, revised paragraph (a)(2) of § 63.10031 would require only information that is compatible with the existing programming of ECMPS to be reported electronically through December 31, 2017; this includes hourly HCl emissions data and the results of daily calibration drift tests and RATAs. In the interim, EGU owners or operators would be required to keep records of all of the other certification and QA tests.

This proposed rule would revise the title to section 2.3 of appendix B by deleting the reference to FTIR-only monitoring systems. In addition, this proposed rule would amend the recordkeeping and reporting sections of appendix B (*i.e.,* sections 10 and 11) by specifying the data elements that must be recorded and reported electronically for each of the tests required by PS 18 and Procedure 6. The proposed revisions make a clear distinction between the tests required for FTIR monitors that are following PS 15 and the test requirements of PS 18 and Procedure 6. Some of the tests in PS 18 and Procedure 6 are similar to tests for which ECMPS programming exists. For example, the "measurement error test" required for initial certification of the HCl monitor is structurally the same as a 40 CFR part 75 linearity check. However, other tests have no counterpart in 40 CFR part 75 CEMS requirements and will require special software development and reporting instructions. EGU owners or operators would report RATAs of the HCl CEMS that are completed on and after January 1, 2018, and the applicable data elements in proposed appendix E in XML format for each test run, along with the electronic summary of results required under section 11 of appendix B. EGU owners or operators would also provide the information required in section 22 of proposed appendix E in PDF format for each RATA.

Because a technology-neutral PS for HCl CEMS was not available prior to April 16, 2015 (which was the compliance date for many of the existing EGUs), EGU owners or operators interested in monitoring HCl either had to use an FTIR system and follow PS 15 or implement another compliance option (*e.g.,* quarterly emission testing) while awaiting publication of PS 18 and Procedure 6. In light of this, the EPA proposes to revise and restructure section 11.5.1 of appendix B to clarify when electronic reporting of hourly HCl emissions data begins. There are two possibilities. In the first case, the monitor would be used for the initial compliance demonstration. This could either apply to a certified FTIR monitor following PS 15 or to a certified monitor following PS 18, if the owner or operator of the EGU received an extension for the compliance date. In this case, EGU owners or operators would begin reporting hourly HCl emissions through ECMPS with the first operating hour of the initial compliance demonstration. In the second case, another option, such as stack testing, would be used for the initial compliance demonstration and continuous monitoring would be implemented later on. In that case, EGU owners or operators would begin reporting hourly HCl emissions reporting through ECMPS with the first operating hour after successfully completing all required certification tests of the CEMS. In either case, the first required quarterly emissions report would be for the calendar quarter in which emissions reporting begins.

5. Proposed Addition of Appendix C

A new appendix, *i.e.,* appendix C, would be added to subpart UUUUU of part 63. Appendix C sets forth the continuous monitoring and reporting requirements for filterable PM. Appendix C is structurally similar to appendices A and B, but there are certain notable differences. Appendix C includes provisions for installation and certification of the PM CEMS, and for on-going QA of the data from the CEMS. The monitoring system would be certified according to PS 11 in 40 CFR part 60, appendix B, and for the on-going QA tests, Procedure 2 to 40 CFR part 60, appendix F would be required. The proposed frequencies for the QA tests and the rules for data validation are presented in Section 5 of appendix C. Note that in contrast with appendices A and B, the familiar QA operating quarter and grace period scheme would not apply to the on-going QA tests of the PM CEMS. Also, for technical reasons, the use of temporary like-kind replacement PM analyzers and the conditional data validation provisions in § 75.20(b)(3) would not be allowed. The proposed procedures for calculating the PM emission rates in units of the emission standard are found in section 6. These calculation methods are basically the same as those used for Hg monitoring systems and HCl and HF CEMS in appendices A and B. The proposed recordkeeping and reporting requirements are found in section 7.

Proposed section 7.1 specifies that monitoring plan records and hourly records of operating parameters, PM concentration, diluent gas concentration, stack gas flow rate and moisture content, and PM emission rate must be kept. Sections 7.2.3 and 7.2.4, respectively, would require monitoring plan information and the results of certification, recertification, and QA tests to be reported electronically. Proposed section 7.2.5 requires quarterly electronic emissions reports to be submitted within 30 days after the end of each calendar quarter. All electronic reports would be submitted using the ECMPS Client Tool. However, electronic reporting of monitoring plan information, certification and on-going QA test results would not begin until January 1, 2018, to allow time for software development and beta testing. Until then, records of the required information and tests would be kept. For PM CEMS correlations, RRAs, and RCAs completed on and after January 1, 2018, the applicable reference method data elements in sections 17 through 21 of proposed appendix E would be reported in XML format for each test run, along with the electronic test summary required under section 7.2.4 of proposed appendix C. The information required in section 22 of proposed appendix E would also be provided in PDF format for each test. Reporting of hourly PM emissions data would begin either with the first operating hour after December 31, 2017, or the first operating hour after completion of the initial PM CEMS correlation test, whichever is later.

6. Proposed Addition of Appendix D

A second new appendix, *i.e.,* appendix D, would be added to subpart UUUUU of 40 CFR part 63. Appendix D sets forth the monitoring and reporting requirements for EGU owners or operators who elect to use a PM CPMS to demonstrate continuous compliance. Structurally, appendix D is similar to appendices A, B, and C, but it is much simpler. The criteria for system design and performance, the procedures for determining operating limits, data reduction, and compliance assessment, and certain recordkeeping requirements are not detailed in the appendix; rather, the applicable sections of the MATS rule are cross-referenced (see proposed sections 2.1 through 2.4, 3.1 introductory text, and section 3.1.1.1 of the appendix).

Proposed section 3.1.1.2 requires the ECMPS Client Tool to be used to create and maintain an electronic monitoring plan. The PM CPMS would be defined as a monitoring system with a unique system ID number. The monitoring plan would also include the current operating limit (with units of measure), the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system and monitor span and range information.

Operating parameter records would be required for each hour of operation of the affected EGUs, including the date and hour, the EGU or stack operating time, and a flag to identify exempt startup and shutdown hours. Hourly average PM CPMS output values would be reported for each hour in which a valid value of the output parameter is obtained, in units of milliamps, PM concentration, or other units of measure, including the instrument's digital signal output equivalent. A special code would be required to indicate operating hours in which valid data are not obtained. The percent monitor data availability would also be calculated according to § 75.32.

Proposed sections 3.2.2 and 3.2.3, respectively, require notifications (to be provided in accordance with § 63.10030) and electronic monitoring plan submittals at specified times. Proposed section 3.2.4 requires electronic quarterly reports to be submitted within 30 days after the end of each calendar quarter. Reporting of hourly responses from the PM CPMS would begin either with the first operating hour in the first calendar quarter of 2018 or the first operating hour after completion of the initial stack test that establishes the operating limit, whichever is later. Each quarterly report would include a compliance certification with a statement by a responsible official that to the best of his or her knowledge, the report is true, accurate, and complete. In addition to the electronic quarterly reports, proposed section 3.2.5 requires the results of each performance stack test for PM that is used to establish an operating limit to be reported electronically in the relevant quarterly compliance report, in accordance with § 63.10031(g). For PM tests completed on and after January 1, 2018, the data elements common to all tests in section 17 of proposed appendix E and the applicable reference method data elements (in sections 18–20) would be provided for each test run, in an XML report. This report would be submitted along with the quarterly compliance report. The additional information required in section 22 of proposed appendix E would also be reported for each test in PDF format as an attachment to the compliance report.

7. Proposed Addition of Appendix E

A third new appendix, *i.e.,* appendix E, would be added to subpart UUUUU of 40 CFR part 63. Sections 2 through 13 of proposed appendix E list the data elements that must be reported in XML format in the quarterly compliance reports that cover the period beginning January 1, 2018, and are required under proposed § 63.10031(g).

The MATS compliance strategy (*e.g.,* whether the EGU owner or operator elects to perform periodic stack testing, continuous monitoring, or to use emissions averaging) would determine which data elements must be reported. As previously noted, draft reporting instructions for the quarterly compliance reports are found in the rule docket and on the CAMD Web site.

For each performance stack test that is completed on or after January 1, 2018 (including 30- or 90-boiler operating day Hg LEE tests), the data elements common to all tests in section 17 of proposed appendix E and the applicable reference method data elements (in sections 18–21) would be provided for each test run in an XML format. This report would be submitted along with the compliance report for the calendar quarter in which the test was completed.

For RATAs, PM CEMS correlations, RRAs, and RCAs that are completed on or after January 1, 2018, the data elements common to all tests in section 17 of proposed appendix E and the applicable reference method data elements (in sections 17–21) would be provided for each test run in an XML report. This report would be submitted along with the electronic test results reported under appendix A (for Hg system RATAs), appendix B (for HCl and HF system RATAs), appendix C (for correlation tests, RRAs, and RCAs of a PM CEMS), and/or 40 CFR part 75 (for SO_2 system RATAs).

The information in section 22 of proposed appendix E would also be provided for each performance stack test, RATA, RRA, RCA, and PM CEMS correlation, in PDF format.

F. What are the incremental costs and benefits of this proposed action?

As mentioned below, while this proposed rulemaking would increase the frequency of compliance reports from semiannual to quarterly, the implementation of a single reporting system and consolidation of reporting would reduce the overall burden by at least 43,194 hours (per year) relative to the original rule. The estimated burden reduction would result in savings to regulated entities of $4,229,162 in annualized capital or operation and maintenance costs.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2137.06. You can find a copy of the ICR in the docket for this proposed rule, and it is briefly summarized here.

This action would not impose any additional information collection burden. Rather, it would reduce burden by requiring all of the essential data to be submitted to a single data system, rather than two systems, as was originally required. As previously discussed in this preamble, this proposed rule represents the second phase of a two-phased approach to achieve that objective. This action would streamline MATS reporting by consolidating a number of separate reports that are currently submitted on different time tracks into a single, quarterly compliance submittal. It would also increase data transparency and provide the public and regulatory authorities with access to more of the MATS data in XML format. No new continuous monitoring requirements would be imposed by this proposed action. Coal-fired EGUs that do not qualify for LEE status would still be required to continuous monitor Hg emissions. The use of continuous monitoring would remain optional for all other parameters. The following is an example of how this proposed rule would streamline MATS reporting and reduce burden. Under the original rule, an owner or operator of a coal-fired EGU that elected: (1) To monitor PM and Hg continuously via CEMS; and (2) to perform quarterly HCl stack tests would have been required, for a typical calendar year, to submit four separate quarterly reports that include the 30-boiler operating day rolling averages for

PM, four more quarterly stack test reports for HCl, two separate RATA reports for Hg and HCl, and two semiannual compliance reports, for a total of 12 reports. These reports would all have been submitted on different time tracks. In contrast, this proposed rule would require only six reports for the same compliance strategy, *i.e.,* four quarterly compliance report submittals and two RATA reports; data giving details of the reference methods used for the stack tests and RATAs would be provided along with each of these reports. The 30-boiler operating day rolling PM averages would be included in the quarterly compliance reports, together with the summarized HCl stack test results.

Confidentiality: Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, December 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

Respondents/affected entities: The respondents are owners or operators of fossil fuel-fired EGUs. The United States Standard Industrial Classification code for respondents affected by the rule is 4911 (Electric Services). The corresponding North American Industry Classification System (NAICS) code is 221100 (Electric Power Generation, Transmission, and Distribution).

Respondent's obligation to respond: The respondents are obliged to respond to the applicable recordkeeping and reporting requirements of the MATS.

Estimated number of respondents: On average, over the next 3 years, approximately 1,252 existing respondents will be subject to the MATS emissions standards. It is estimated that an additional two respondents per year will also become subject. Therefore, the overall number of respondents expected in each of the next 3 years is 1,254.

Frequency of response: Respondents would be required to submit quarterly compliance reports using a single electronic data system (*i.e.,* ECMPS). This represents a change from the requirement to report semiannual compliance reports. The total annual response associated with this change would increase from 2,648 to 5,186. However, as illustrated in the example above, this increase in the number of annual responses would be offset to a great degree by requiring other reports that were originally required to be submitted separately to be incorporated into, or submitted together with, the quarterly compliance reports.

Total estimated burden: Although this proposed rulemaking increases the frequency of compliance reports from semiannual to quarterly, the implementation of a single reporting system and consolidation of reporting is estimated to reduce the overall burden by at least 43,194 hours (per year) relative to the original rule which required regulated entities to submit compliance data through 2 separate electronic systems in a piecemeal fashion. The estimated reduction in burden is based principally on the assumption that each quarterly compliance submittal required approximately 30 hours to prepare, which is 45 hours less than the original estimate for preparing a semiannual compliance report. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The reduction in burden associated with this proposed rulemaking would result in savings to regulated entities of $4,229,162 in annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this proposed rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *ORIA_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 31, 2016. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impact of this final action on small entities, small entity is defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This proposed rule will not impose any requirements on small entities, and no small entities are expected to incur annualized costs as a result of the amendments. We have determined that the amendments will not result in any "significant" adverse economic impact for small entities. These proposed amendments would not create any new requirements or burdens, and no costs to small entities would be associated with these proposed amendments.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. The proposed amendments would impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this proposed action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This proposed action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 23, 2016.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 63 to read as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

■ 2. Section 63.10011 is amended by revising paragraph (g)(3) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emissions limits and work practice standards?

*   *   *   *   *

(g) * * *

(3) You must report the emissions data recorded during startup and shutdown. If you are relying on paragraph (2) of the definition of startup in § 63.10042, then for startup and shutdown incidents that occur on or prior to December 31, 2017, you must also report the supplementary information referenced in § 63.10031(c)(5) in the semiannual compliance report. For startup and shutdown incidents that occur on or after January 1, 2018, you must provide the information referenced in § 63.10031(c)(5) in PDF format as an attachment to the quarterly compliance reports, in accordance with § 63.10031(i).

*   *   *   *   *

■ 3. Section 63.10021 is amended by revising paragraphs (e)(9), (f), (h)(3), and (i) to read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

*   *   *   *   *

(e) * * *

(9) Until January 1, 2018, report the dates of the initial and subsequent tune-ups electronically, in PDF format, in your semiannual compliance reports, as specified in § 63.10031(f)(4) and (6), and, if requested by the Administrator, in hard copy, as specified in § 63.10031(f)(5). After December 31, 2017, report the date of all tune-ups electronically in your quarterly compliance reports, in accordance with § 63.10031(g) and section 10 of appendix E to this subpart. The tune-up report date is the date when tune-up requirements in paragraphs (e)(6) and (7) of this section are completed.

(f) You must submit the applicable reports and notifications required under § 63.10031(a) through (l) to the Administrator electronically, using EPA's Emissions Collection and Monitoring Plan System (ECMPS) Client Tool.

*   *   *   *   *

(h) * * *

(3) You must report the emissions data recorded during startup and shutdown. For startup and shutdown incidents that occur on or prior to December 31, 2017, you must also report the supplementary information in § 63.10031(c)(5) in the semiannual compliance report. For startup and shutdown incidents that occur on and after January 1, 2018, the applicable information in § 63.10031(c)(5) shall be provided quarterly, in PDF format, in accordance with § 63.10031(i).

*   *   *   *   *

(i) You must provide reports concerning activities and periods of startup and shutdown that occur on or prior to December 31, 2017, in accordance with § 63.10031(c)(5), in the semiannual compliance report. For startup and shutdown incidents that occur on and after January 1, 2018, the applicable information in § 63.10031(c)(5) shall be provided quarterly, in PDF format, in accordance with § 63.10031(i).

■ 4. Section 63.10031 is amended by:

■ a. Revising paragraphs (a), (b), (c)(5)(iii), (d), (e), (f) introductory text, and (f)(1) and (2);

■ b. Removing and reserving paragraph (f)(3);

■ c. Revising paragraphs (f)(4), (f)(6) introductory text, (f)(6)(vii) and (xi), and (g); and

■ d. Adding paragraphs (h), (i), (j), (k), and (l).

The revisions and additions read as follows:

§ 63.10031 What reports must I submit and when?

(a) You must submit each report in this section that applies to you.

(1) If you are required to (or elect to) monitor Hg emissions continuously, you must meet the electronic reporting requirements of appendix A to this subpart.

(2) If you elect to monitor HCl and/or HF emissions continuously, you must meet the electronic reporting requirements of appendix B to this subpart. Notwithstanding this requirement, if you opt to certify your

HCl monitor according to Performance Specification 18 in appendix B to part 60 of this chapter and to use Procedure 6 in appendix F to part 60 of this chapter for on-going QA of the monitor, then, on and prior to December 31, 2017, report only hourly HCl emissions data and the results of daily calibration drift tests and RATAs performed prior to that date; keep records of all of the other required certification and QA tests.

(3) If you elect to monitor filterable PM emissions continuously, you must meet the electronic reporting requirements of appendix C to this subpart. Electronic reporting of hourly PM emissions data shall begin with the later of: The first operating hour on or after January 1, 2018; or the first operating hour after completion of the initial PM CEMS correlation test.

(4) If you elect to demonstrate continuous compliance using a PM CPMS, you must meet the electronic reporting requirements of appendix D to this subpart. Electronic reporting of the hourly PM CPMS output shall begin with the later of: The first operating hour on or after January 1, 2018; or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS.

(5) If you elect to monitor SO_2 emission rate continuously as a surrogate for HCl, you must use the ECMPS Client Tool to submit the following information to EPA (except where it is already required to be reported or has been previously provided under the Acid Rain Program or another emissions reduction program that requires the use of part 75 of this chapter):

(i) Monitoring plan information for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with §§ 75.62 and 75.64(a)(4) of this chapter;

(ii) Certification, recertification, quality-assurance, and diagnostic test results for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with § 75.64(a)(5) of this chapter; and

(iii) Quarterly electronic emissions reports. You must submit an electronic quarterly report within 30 days after the end of each calendar quarter, starting with a report for the calendar quarter in which the initial 30 boiler operating day performance test begins. Each report must include the following information:

(A) The applicable operating data specified in § 75.57(b) of this chapter;

(B) An hourly data stream for the unadjusted SO_2 concentration (in ppm), and separate unadjusted hourly data streams for the other parameters needed to convert the SO_2 concentrations to units of the standard. (*Note:* If a default moisture value is used in the emission rate calculations, an hourly data stream is not required for moisture; rather, the default value must be reported in the electronic monitoring plan);

(C) An hourly SO_2 emission rate data stream, in units of the standard (*i.e.,* lb/mmBtu or lb/MWh, as applicable), calculated according to § 63.10007(e) and (f)(1), rounded to 3 significant figures, and expressed in scientific notation;

(D) The results of all required daily quality-assurance tests of the SO_2 monitor and the additional monitors used to convert SO_2 concentration to units of the standard, as specified in appendix B to part 75 of this chapter;

(E) A compliance certification, which includes a statement, based on reasonable inquiry of those persons with primary responsibility for ensuring that all SO_2 emissions from the affected EGUs under this subpart have been correctly and fully monitored, by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete. You must submit such a compliance certification statement in support of each quarterly report.

(b) You must submit semiannual compliance reports according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.9984 or, if applicable, the extended compliance date approved under § 63.6(i)(4), and ending on June 30 or December 31, whichever date is the first date that occurs at least 180 days after the compliance date that is specified for your affected source in § 63.9984.

(2) The first compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.9984 or, if applicable, the extended compliance date approved under § 63.6(i)(4).

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) The final semiannual compliance report shall cover the reporting period from July 1, 2017 through December 31, 2017. Quarterly compliance reports shall be submitted thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2018.

(c) * * *

(5) * * *

(iii) If you choose to use CEMS for compliance purposes, include hourly average CEMS values and hourly average flow rates. Use units of milligrams per cubic meter for PM CEMS, micrograms per cubic meter for Hg CEMS, and ppmv for HCl, HF, or SO_2 CEMS. Use units of standard or actual cubic feet per hour on a wet basis for flow rates.

* * * * *

(d)(1) Prior to January 1, 2018, in the semiannual compliance reports described in paragraph (c) of this section, you must include in the report the excess emissions and monitor downtime information required in § 63.10(e)(3)(v) and (vi) for EGUs whose owners or operators rely on a CMS to comply with an emissions or operating limit.

(2) Beginning on January 1, 2018, if you own or operate an EGU that relies on a CMS to demonstrate compliance, except as otherwise provided in paragraph (d)(3) of this section, you must include in your quarterly compliance report the following information for any excess emission(s) that occurred during the calendar quarter; if there were no excess emissions, you must include a statement to that effect in the compliance report:

(i) The date (or, if applicable, the range of dates) on which each excess emission (as defined in § 63.10042) occurred;

(ii) The cause of the excess emission (if known);

(iii) A description of any corrective actions taken; and

(iv) If there were any malfunctions or emergency bypass incidents during the reporting period, include the number, duration, and a brief description of each type of malfunction or bypass event that occurred and that caused (or may have caused) any applicable emissions limitation to be exceeded.

(3) If you rely on a PM CPMS to demonstrate compliance with an

operating limit, you must continue to provide the information in paragraph (d)(1) of this section as a quarterly PDF submittal, in accordance with paragraph (k) of this section.

(e) Each affected source that has obtained a Title V operating permit pursuant to part 70 or part 71 of this chapter must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant paragraphs (c) and (d) of this section, or two quarterly compliance reports covering the appropriate calendar half pursuant to paragraph (g) of this section, along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report(s) includes all required information concerning deviations from any emission limit, operating limit, or work practice requirement in this subpart, submission of the compliance report(s) satisfies any obligation to report the same deviations in the semiannual monitoring report. Submission of the compliance report(s) does not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(1) Prior to January 1, 2018, compliance with the emission limits and/or operating limits in this subpart shall be assessed based on information provided in the applicable reports and notifications described in paragraphs (a), (f), and (j) of this section.

(2) On and after January 1, 2018, the interim PDF reporting period described in paragraph (f)(6) of this section shall be discontinued and compliance with the emissions and operating limits of this subpart shall be assessed based on information provided in:

(i) The information described in paragraphs (g), (i), and (k) of this section;

(ii) The applicable electronic reports required under paragraphs (a)(1) through (5) of this section; and

(iii) Notifications of Compliance Status, in accordance with paragraph (h) of this section.

(f) For each performance stack test completed prior to January 1, 2018 (including 30-boiler operating day Hg LEE demonstration tests), you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the testing is completed.

(1) For each relative accuracy test audit (RATA) of an Hg, HCl, HF, or SO_2 monitoring system completed prior to January 1, 2018, and for each relative response audit (RRA) and each response correlation audit (RCA) of a PM CEMS completed prior to that date, you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the test is completed.

(2) If, for a particular EGU or a group of EGUs serving a common stack, you have elected to demonstrate compliance using a PM CEMS, an approved HAP metals CEMS, or a PM CPMS, you must submit quarterly PDF reports in accordance with paragraph (f)(6) of this section, which include all of the 30-boiler operating day rolling average emission rates derived from the CEMS data or the 30-boiler operating day rolling average responses derived from the PM CPMS data (as applicable). Each quarterly report is due within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st. Submission of these quarterly reports in PDF format shall end with the report that covers the fourth calendar quarter of 2017. Beginning with the first calendar quarter of 2018, the compliance averages shall no longer be reported separately, but shall be incorporated into the quarterly compliance reports described in paragraph (g) of this section. In addition to the compliance averages for PM CEMS, PM CPMS, and/or HAP metals CEMS, the quarterly compliance reports described in paragraph (g) of this section must also include the rolling average emission rates for Hg, HCl, HF, and/or SO_2, if you have elected to (or are required to) continuously monitor these pollutants. Further, if your EGU or common stack is in an averaging plan, your quarterly compliance reports must identify all of the EGUs or common stacks in the plan and must document the 30- or 90-group boiler operating day rolling weighted average emission rates (WAERs) for the averaging group.

(3) [Reserved]

(4) You must submit semiannual compliance reports as required under paragraphs (b) through (d) of this section, ending with a report covering the semiannual period from July 1 through December 31, 2017, and Notifications of Compliance Status as required under § 63.10030(e), in PDF format. Quarterly compliance reports shall be submitted in XML format thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2018.

* * * * *

(6) All reports and notifications described in paragraphs (f) introductory text, (f)(1), (f)(2), and (f)(4) of this section shall be submitted to the EPA in the specified format and at the specified frequency using the ECMPS Client Tool. Each PDF version of a performance stack test report, CEMS RATA report, RRA report, and RCA report must include sufficient information to assess compliance and to demonstrate that the reference method testing was done properly. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

* * * * *

(vii) An indication of the type of PDF report or notification being submitted;

* * * * *

(xi) The date the performance test was conducted (if applicable) and the test number (if applicable);

* * * * *

(g) Starting with a report for the first calendar quarter of 2018, you must use the ECMPS Client Tool to submit quarterly electronic compliance reports. The compliance reports are due no later than 60 days after the end of each calendar quarter. Each compliance report shall include the applicable data elements in sections 2 through 13 of appendix E to this subpart. For each performance stack test in the compliance report, provided that the testing was conducted using a method (or methods) supported by the ERT and identified on the ERT Web site, you must submit an XML file that includes the applicable data elements in sections 17 through 21 of appendix B to this subpart and a PDF attachment that includes the information in section 22 of appendix E to this subpart (see *https://www3.epa.gov/ttn/chief/ert/ertinfo.pdf*).

(h) On and after January 1, 2018, all required Notifications of Compliance Status shall be submitted in accordance with § 63.9(h)(2)(ii), in PDF format, using the ECMPS Client Tool. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each Notification.

(i) For startup and shutdown incidents that occur on or prior to December 31, 2017, you must include the information in § 63.10031(c)(5) in PDF format, in the semiannual compliance report. For startup and shutdown event(s) that occur on or after January 1, 2018, you must use the ECMPS Client Tool to submit this information in PDF format, as an attachment to each quarterly compliance report starting with the report for the first calendar quarter of 2018. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each startup and shutdown report.

(j) If you elect to use a certified PM CEMS to monitor PM emissions continuously to demonstrate compliance with this subpart and have begun recording valid data from the PM CEMS prior to January 1, 2018, you must use the ECMPS Client Tool to submit a detailed report of your PS 11 correlation test in PDF format no later than December 31, 2017. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

(k) If you elect to demonstrate compliance using a PM CPMS, you must use the ECMPS Client Tool to submit the excess emissions summary report described in § 63.10(e)(3)(v) and (vi) in PDF format, as an attachment to the quarterly compliance report. The first report shall cover the period from January 1, 2018 through March 31, 2018. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each report submittal.

(l) You must meet the applicable reporting requirements of appendix E to this subpart.

■ 5. Section 63.10032 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.10032 What records must I keep?

(a) You must keep records according to paragraphs (a)(1) and (2) of this section. If you are required to (or elect to) continuously monitor Hg and/or HCl and/or HF and/or PM emissions, or if you elect to use a PM CPMS, you must keep the records required under appendix A and/or appendix B and/or appendix C and/or appendix D to this subpart. You must also keep records of all data elements and other information in appendix E to this subpart that apply to your compliance strategy.

(1) In accordance with § 63.10(b)(2)(xiv), a copy of each initial notification or Notification of Compliance Status that you submitted (including all supporting documentation) and a copy of each compliance report that you submitted.

* * * * *

■ 6. Table 3 to subpart UUUUU of part 63 is amended:

■ a. In entry "3", by revising the last sentence in paragraph a.(1) and the last sentence in paragraph d.; and

■ b. In entry "4", in the fourth paragraph, by revising the last sentence.

The revisions read as follows:

Table 3 to Subpart UUUUU of Part 63—Work Practice Standards

* * * * *

If your EGU is . . .	You must meet the following . . .
*	* * * * * *
3. * * *	(a) * * * (1) * * * You must report the applicable information in § 63.10031(c)(5) concerning startup periods that occur on or prior to December 31, 2017 in PDF format in the semiannual compliance report. For startup periods that occur on or after January 1, 2018, you must provide that information quarterly, in PDF format, according to § 63.10031(i).
*	* * * * * *
	(d) * * * You must report the applicable information in § 63.10031(c)(5) concerning startup periods that occur on or prior to December 31, 2017 in PDF format in the semiannual compliance report. For startup periods that occur on or after January 1, 2018, you must provide that information quarterly, in PDF format, according to § 63.10031(i).
4. * * *	* * * * * * You must report the applicable information in § 63.10031(c)(5) concerning startup periods that occur on or prior to December 31, 2017 in PDF format in the semiannual compliance report. For startup periods that occur on or after January 1, 2018, you must provide that information quarterly, in PDF format, according to § 63.10031(i).

■ 7. Table 8 to subpart UUUUU of part 63 is revised to read as follows:

Table 8 to Subpart UUUUU of Part 63—Reporting Requirements

In accordance with § 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy:

You must submit the following reports . . .
1. The electronic reports required under § 63.10031(a)(1), if you continuously monitor Hg emissions.
2. The electronic reports required under § 63.10031(a)(2), if you continuously monitor HCl and/or HF emissions.
3. The electronic reports required under § 63.10031(a)(3), if you continuously monitor PM emissions. Reporting of hourly PM emissions data using ECMPS shall begin with the first operating hour after: December 31, 2017 or the hour of completion of the initial PM CEMS correlation test, whichever is later.
4. The electronic reports required under § 63.10031(a)(4), if you elect to use a PM CPMS. Reporting of hourly PM CPMS response data using ECMPS shall begin with the first operating hour after December 31, 2017 or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS, whichever is later.
5. The electronic reports required under § 63.10031(a)(5), if you continuously monitor SO_2 emissions.
6. Performance stack test reports (including 30-day Hg LEE test reports), in PDF format, according to the introductory text of § 63.10031(f) and § 63.10031(f)(6), for tests completed prior to January 1, 2018.
7. PDF reports for RATAs of Hg, and/or HCl, and/or HF, and/or SO_2 monitoring systems and for RRAs and RCAs of PM CEMS, according to § 63.10031(f)(1) and (6), for tests completed prior to January 1, 2018.
8. Quarterly reports that include all 30-boiler operating day rolling averages in the reporting period for PM CEMS, approved HAP metals CEMS, and/or PM CPMS, in PDF format, according to § 63.10031(f)(2) and (6). The final quarterly report in PDF format shall cover the fourth calendar quarter of 2017. Starting in the first quarter of 2018, all 30-day rolling averages for all parameters (including Hg, HCl, HF, and/or SO_2) must be reported in XML format in the quarterly compliance reports described in § 63.10031(g). If your EGU or common stack is in an averaging plan, each quarterly compliance report must identify the EGUs in the plan and include all of the 30- or 90-group boiler operating day weighted average emission rates (WAERs) for the averaging group.
9. The semiannual compliance reports described in § 63.10031(c) and (d), in PDF format, according to § 63.10031(f)(4) and (6). The final semiannual compliance report shall cover the period from July 1, 2017 through December 31, 2017.

You must submit the following reports . . .
10. Notifications of compliance status, in PDF format, according to § 63.10031(f)(4) and (6) until December 31, 2017, and according to § 63.10031(h) thereafter.
11. Quarterly electronic compliance reports, containing the applicable data elements identified in sections 2 through 13 of appendix E to this subpart, in XML format, starting with a report for the first calendar quarter of 2018, in accordance with § 63.10031(g). These reports are due within 60 days after the end of each calendar quarter.
12. Quarterly reports, in PDF format, starting with a report for the first calendar quarter of 2018, that include the applicable information referenced in § 63.10031(c)(5) pertaining to startup and shutdown events (see § 63.10031(i)). These reports shall be submitted as attachments to the quarterly compliance reports, and are due within 60 days after the end of each calendar quarter.
13. Reports, in XML format, that contain the applicable data elements and other information in sections 17 through 21 of appendix E to this subpart, for the following tests that are completed on and after January 1, 2018: Performance stack tests (including 30-boiler operating day Hg LEE tests), Hg, HCl, HF, and SO_2 monitoring system RATAs, and correlation tests, RRAs and RCAs of PM CEMS. Reports associated with performance stack tests must be submitted along with the relevant quarterly compliance report. Reports associated with RATAs, correlation tests, RRAs, and RCAs must be submitted along with the electronic test results required under appendix A, B, or C to this part or part 75 of this chapter (as applicable), either prior to or concurrent with the relevant quarterly emissions report.
14. For each test described in section 14 of appendix E to this subpart, PDF reports that include additional information which is incompatible with electronic reporting, *e.g.,* diagrams, laboratory calibration of sampling equipment, etc. (see section 22 of appendix E). For performance stack tests, this information must be submitted as an attachment to the relevant quarterly compliance report. For RATAs, PM CEMS correlation tests, RRAs, and RCAs, this information must be submitted along with the electronic test results required under appendix A, B, or C to this part or part 75 of this chapter (as applicable), either prior to or concurrent with the relevant quarterly emissions report.
15. The excess emissions summary report described in § 63.10(e)(3)(v) and (vi), in PDF format, if you have elected to demonstrate compliance using a PM CPMS. Submit this information as part of the semiannual compliance report until January 1, 2018. Thereafter, submit the information in PDF format as an attachment to the quarterly compliance report.
16. If, prior to January 1, 2018, you have begun using a certified PM CEMS to demonstrate compliance with this subpart, you must use the ECMPS Client Tool to submit a PDF report of the existing PS 11 correlation test of the PM CEMS, no later than December 31, 2017.

■ 8. Table 9 to subpart UUUUU is amended by revising the entry "§ 63.10(c)(7)" to read as follows:

Table 9 to Subpart UUUUU of Part 63—Applicability of General Provisions to Subpart UUUUU

* * * * *

Citation	Subject	Applies to subpart UUUUU
* *	* *	* * *
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Yes. Applies only to EGU owners or operators who rely on PM CPMS for compliance demonstration purposes.
* *	* *	* * *

■ 9. Appendix A to subpart UUUUU is amended by:

■ a. Revising section 4.1.1.5.2; and

■ b. Revising the entry "RATA" in Table A–2.

The revisions read as follows:

Appendix A to Subpart UUUUU of Part 63—Hg Monitoring Provisions

* * * * *

4. Certification and Recertification Requirements

* * * * *

4.1.1.5.2 *Calculation of RATA Results.* Calculate the relative accuracy (RA) of the monitoring system, on a µg/scm basis, as described in section 12 of Performance Specification (PS) 2 in appendix B to part 60 of this chapter (see Equations 2–3 through 2–6 of PS 2). For purposes of calculating the relative accuracy, ensure that the reference method and monitoring system data are on a consistent basis, either wet or dry. The CEMS must either meet the main performance specification or the alternative specification in Table A–1 of this appendix.

* * * * *

5. Ongoing Quality Assurance (QA) and Data Validation

* * * * *

TABLE A–2—ON-GOING QA TEST REQUIREMENTS FOR Hg CEMS

Perform this type of QA test . . .	At this frequency . . .	With these qualifications and exceptions . . .	Acceptance criteria . . .
* *	*	* *	* *
RATA	Annual[4]	• Test deadline may be extended for "non-QA operating quarters," up to a maximum of 8 quarters from the quarter of the previous test. • 720 operating hour grace period available	$\leq$20.0% RA or $\lvert RM_{avg} - C_{avg}\rvert + \lvert CC\rvert \leq 0.5$ µg/scm, if $RM_{avg} <$ 2.5 *µg/scm.*
* *	*	* *	* *

[4] "Annual" means once every four QA operating quarters.

* * * * *

■ 10. Appendix B to subpart UUUUU is amended by:

■ a. Revising section 2.3;

- b. Revising sections 10.1.8.1.1, 10.1.8.1.2, and 10.1.8.1.3;
- c. Adding sections 10.1.8.1.4 through 10.1.8.1.12;
- d. Revising section 11.4.1;
- e. Adding sections 11.4.1.1 through 11.4.1.9;
- f. Revising section 11.4.2;
- g. Revising sections 11.4.3.11 and 11.4.3.12;
- h. Redesignating section 11.4.3.13 as 11.4.3.14;
- i. Adding a new section 11.4.3.13;
- j. Redesignating section 11.4.4 as 11.4.13;
- k. Adding sections 11.4.4, 11.4.4.1 through 11.4.4.7, 11.4.5, 11.4.5.1, 11.4.5.1.1 through 11.4.5.1.9, 11.4.5.2, 11.4.5.2.1 through 11.4.5.2.4, 11.4.6, 11.4.6.1 through 11.4.6.8, 11.4.7, 11.4.7.1 through 11.4.7.12, 11.4.8, 11.4.8.1 through 11.4.8.15, 11.4.9, 11.4.9.1 through 11.4.9.5, 11.4.10, 11.4.10.1 through 11.4.10.8, 11.4.11, 11.4.11.1 through 11.4.11.7, 11.4.12, and 11.4.12.1 through 11.4.12.9; and
- l. Revising section 11.5.1.

The revisions and additions read as follows:

Appendix B to Subpart UUUUU of Part 63—HCl and HF Monitoring Provisions

* * * * *

2. Monitoring of HCl and/or HF Emissions

* * * * *

2.3 *Monitoring System Equipment, Supplies, Definitions, and General Operation.* The following provisions apply:

* * * * *

10. Recordkeeping Requirements

* * * * *

10.1.8.1.1 For each required 7-day and daily calibration drift test or daily calibration error test (including daily calibration transfer standard tests) of the HCl or HF CEMS, record the test date(s) and time(s), reference gas value(s), monitor response(s), and calculated calibration drift or calibration error value(s). If you use the dynamic spiking option for the mid-level calibration drift check under PS–18, you must also record the measured concentration of the native HCl in the flue gas before and after the spike and the spiked gas dilution factor. When using an IP–CEMS under PS 18, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.2 For the required gas audits of an FTIR HCl or HF CEMS that is following PS 15, record the date and time of each spiked and unspiked sample, the audit gas reference values and uncertainties. Keep records of all calculations and data analyses required under sections 9.1 and 12.1 of Performance Specification 15, and the results of those calculations and analyses.

10.1.8.1.3 For each required RATA of an HCl or HF CEMS, record the beginning and ending date and time of each test run, the reference method(s) used, and the reference method and HCl or HF CEMS run values. Keep records of stratification tests performed (if any), all the raw field data, relevant process operating data, and the all calculations used to determine the relative accuracy.

10.1.8.1.4 For each required beam intensity test of an HCl IP–CEMS under PS 18, record the test date and time, the known attenuation value (%) used for the test, the concentration of the high-level reference gas used, the full-beam and attenuated beam intensity levels, the measured HCl concentrations at full-beam intensity and attenuated intensity and the percent difference between them, and the results of the test. For each required daily beam intensity check of an IP–CEMS under Procedure 6, record the beam intensity measured including the units of measure and the results of the check.

10.1.8.1.5 For each required measurement error test of an HCl monitor, record the date and time of each gas injection, the reference gas concentration (low, mid, or high) and the monitor response for each of the three injections at each of the three levels. Also record the average monitor response and the measurement error (ME) at each gas level and the related calculations. For measurement error tests conducted on IP–CEMS, also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.6 For each required level of detection (LOD) test of an HCl monitor performed in a controlled environment, record the test date, the concentrations of the reference gas and interference gases, the results of the seven (or more) consecutive measurements of HCl, the standard deviation, and the LOD value. For each required LOD test performed in the field, record the test date, the three measurements of the native source HCl concentration, the results of the three independent standard addition (SA) measurements known as standard addition response (SAR), the effective spike addition gas concentration (for IP–CEMS, the equivalent concentration of the reference gas), the resulting standard addition detection level (SADL) value and all related calculations. For extractive CEMS performing the SA using dynamic spiking, you must record the spiked gas dilution factor.

10.1.8.1.7 For each required measurement error/level of detection response time test of an HCl monitor, record the test date, the native HCl concentration of the flue gas, the reference gas value, the stable reference gas readings, the upscale/downscale start and end times, and the results of the upscale and downscale stages of the test.

10.1.8.1.8 For each required temperature or pressure measurement verification or audit of an IP–CEMS, keep records of the test date, the temperatures or pressures (as applicable) measured by the calibrated temperature or pressure reference device and the IP–CEMS, and the results of the test.

10.1.8.1.9 For each required interference test of an HCl monitor, record the date of the test, the HCl concentration of the reference gas used, the concentrations of the interference test gases, the baseline HCl and HCl responses for each interferent combination spiked, and the total percent interference as a function of span or HCl concentration. Also keep records to document the quantity and quality of gases, gas volume/rate, temperature, and pressure used to conduct the test.

10.1.8.1.10 For each quarterly relative accuracy audit (RAA) of an HCl monitor, record the beginning and ending date and time of each test run, the reference method used, the HCl concentrations measured by the reference method and CEMS for each test run, the average concentrations measured by the reference method and the CEMS, and the calculated relative accuracy (RA). Keep records of the raw field data, relevant process operating data, and the calculations used to determine the RA.

10.1.8.1.11 For each quarterly cylinder gas audit (CGA) of an HCl monitor, record the date and time of each injection, and the reference gas concentration (zero, mid, or high) and the monitor response for each injection. Also record the average monitor response and the calculated measurement error (ME) at each gas level. For IP–CEMS, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.12 For each quarterly dynamic spiking audit (DSA) of an HCl monitor, record the date and time of the zero gas injection and each spike injection, the results of the zero gas injection, the gas concentrations (mid and high) and the dilution factors and the monitor response for each of the six upscale injections as well as the corresponding native HCl concentrations measured before and after each injection. Also record the average dynamic spiking error for each of the upscale gases, the calculated average DSA Accuracy at each upscale gas concentration, and all calculations leading to the DSA Accuracy.

* * * * *

11. Reporting Requirements

* * * * *

11.4.1 For each daily calibration drift (or calibration error) assessment (including daily calibration transfer standard tests), and for each 7-day calibration drift test of an HCl or HF monitor, report:

11.4.1.1 Facility ID information;

11.4.1.2 The monitoring component ID;

11.4.1.3 The instrument span and span scale;

11.4.1.4 For each gas injection, the date and time, the calibration gas level (zero, mid or other), the reference gas value (ppm), and the monitor response (ppm);

11.4.1.5 A flag to indicate whether dynamic spiking was used for the upscale value (extractive HCl monitors, only);

11.4.1.6 Calibration drift or calibration error (percent of span or reference gas, as applicable);

11.4.1.7 When using the dynamic spiking option, the measured concentration of native HCl before and after each mid-level spike and the spiked gas dilution factor;

11.4.1.8 When using an IP–CEMS, also report the measured concentration of native HCl before and after each upscale measurement, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas; and

11.4.1.9 Reason for test (for the 7-day CD test, only).

11.4.2 For each quarterly gas audit of an HCl or HF CEMS that is following PS 15, report:

* * * * *

11.4.3.11 Standard deviation, as specified in Equation 2–4 of Performance Specification 2 in appendix B to part 60 of this chapter. For HCl CEMS following PS 18, calculate the standard deviation according to section 12.6 of PS 18;

11.4.3.12 Confidence coefficient, as specified in Equation 2–5 of Performance Specification 2 in appendix B to part 60 of this chapter. For HCl CEMS following PS 18, calculate the confidence coefficient according to section 12.6 of PS 18;

11.4.3.13 T-value; and

11.4.3.14 *Relative accuracy (RA).* For FTIR monitoring systems following PS 15, calculate the RA using Equation 2–6 of Performance Specification 2 in appendix B to part 60 of this chapter or, if applicable, according to the alternative procedure for low emitters described in section 3.1.2.2 of this appendix. For HCl CEMS following PS 18, calculate the RA according to section 12.6 of PS 18. If applicable use a flag to indicate that the alternative RA specification for low emitters has been applied.

11.4.4 For each 3-level measurement error test of an HCl monitor, report:

11.4.4.1 Facility ID information;

11.4.4.2 Monitoring component ID;

11.4.4.3 Instrument span and span scale;

11.4.4.4 For each gas injection, the date and time, the calibration gas level (low, mid, or high), the reference gas value in ppm and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;

11.4.4.5 For extractive CEMS, the mean reference value and mean of measured values at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18;

11.4.4.6 Measurement error (ME) at each reference gas level; and

11.4.4.7 Reason for test.

11.4.5 Beam intensity tests of an IP CEMS:

11.4.5.1 For the initial beam intensity test described in Performance Specification 18 in appendix B to part 60 of this chapter, report:

11.4.5.1.1 Facility ID information;

11.4.5.1.2 Date and time of the test;

11.4.5.1.3 Monitoring system ID;

11.4.5.1.4 Reason for test;

11.4.5.1.5 Attenuation value (%);

11.4.5.1.6 High level gas concentration (ppm);

11.4.5.1.7 Full and attenuated beam intensity levels, including units of measure;

11.4.5.1.8 Measured HCl concentrations at full and attenuated beam intensity (ppm); and

11.4.5.1.9 Percentage difference between the HCl concentrations.

11.4.5.2 For the daily beam intensity check described in Procedure 6 of appendix F to Part 60 of this chapter, report:

11.4.5.2.1 Facility ID information;

11.4.5.2.2 Date and time of the test;

11.4.5.2.3 Monitoring system ID;

11.4.5.2.4 The attenuated beam intensity level (limit) established in the initial test;

11.4.5.2.5 The beam intensity measured during the daily check; and

11.4.5.2.6 Results of the test (pass or fail).

11.4.6 For each temperature or pressure verification or audit of an HCl IP–CEMS, report:

11.4.6.1 Facility ID information;

11.4.6.2 Date and time of the test;

11.4.6.3 Monitoring system ID;

11.4.6.4 Type of verification (T or P);

11.4.6.5 Stack sensor measured value;

11.4.6.6 Reference device measured value;

11.4.6.7 Results of the test (pass or fail); and

11.4.6.8 Reason for test.

11.4.7 For each interference test of an HCl monitoring system, report:

11.4.7.1 Facility ID information;

11.4.7.2 Date of test;

11.4.7.3 Monitoring system ID;

11.4.7.4 HCl reference gas concentration;

11.4.7.5 Interference gas types;

11.4.7.6 Concentration of interference gas;

11.4.7.7 Interference free sample response;

11.4.7.8 Response with interference;

11.4.7.9 Total interference;

11.4.7.10 Results of the test (pass or fail);

11.4.7.11 Reason for test; and

11.4.7.12 A flag to indicate whether the test was performed: On this particular monitoring system; on one of multiple systems of the same type; or by the manufacturer on a system with components of the same make and model(s) as this system.

11.4.8 For each level of detection (LOD) test of an HCl monitor, report:

11.4.8.1 Facility ID information;

11.4.8.2 Date of test;

11.4.8.3 Reason for test;

11.4.8.4 Monitoring system ID;

11.4.8.5 A code to indicate whether the test was done in a controlled environment or in the field;

11.4.8.6 HCl reference gas concentration;

11.4.8.7 HCl responses with interference gas (7 repetitions);

11.4.8.8 Standard deviation of HCl responses;

11.4.8.9 Effective spike addition gas concentrations;

11.4.8.10 HCl concentration measured without spike;

11.4.8.11 HCl concentration measured with spike;

11.4.8.12 Dilution factor for spike;

11.4.8.13 The controlled environment LOD value (ppm or ppm-meters);

11.4.8.14 The field determined standard addition detection level (SADL in ppm or ppm-meters); and

11.4.8.15 Result of LDO/SADL test (pass/fail).

11.4.9 For each ME or LOD response time test of an HCl monitor, report:

11.4.9.1 Facility ID information;

11.4.9.2 Date of test;

11.4.9.3 Monitoring component ID;

11.4.9.4 The higher of the upscale or downscale tests, in minutes; and

11.4.9.5 Reason for test.

11.4.10 For each quarterly relative accuracy audit of an HCl monitor, report:

11.4.10.1 Facility ID information;

11.4.10.2 Monitoring system ID;

11.4.10.3 Begin and end time of each test run;

11.4.10.4 The reference method used;

11.4.10.5 The reference method (RM) and CEMS values for each test run, including the units of measure;

11.4.10.6 The mean RM and CEMS values for the three test runs;

11.4.10.7 The calculated relative accuracy (RA), percent; and

11.4.10.8 Reason for test.

11.4.11 For each quarterly cylinder gas audit of an HCl monitor, report:

11.4.11.1 Facility ID information;

11.4.11.2 Monitoring component ID;

11.4.11.3 Instrument span and span scale;

11.4.11.4 For each gas injection, the date and time, the reference gas level (zero, mid, or high), the reference gas value in ppm, and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;

11.4.11.5 For extractive CEMS, the mean reference gas value and mean monitor response at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18;

11.4.11.6 Measurement error (ME) at each reference gas level; and

11.4.11.7 Reason for test.

11.4.12 For each quarterly dynamic spiking audit of an HCl monitor, report:

11.4.12.1 Facility ID information;

11.4.12.2 Monitoring component ID;

11.4.12.3 Instrument span and span scale;

11.4.12.4 For the zero gas injection, the date and time, and the monitor response (*Note:* The zero gas injection from a calibration drift check performed on the same day as the upscale spikes may be used for this purpose.);

11.4.12.5 Zero spike error;

11.4.12.6 For the upscale gas spiking, the date and time of each spike, the reference gas level (mid- or high-), the reference gas value (ppm), the dilution factor, the native HCl concentrations before and after each spike, and the monitor response for each gas spike;

11.4.12.7 Upscale spike error;

11.4.12.8 Dynamic spike accuracy (DSA) at the zero level and at each upscale gas level; and

11.4.12.9 Reason for test.

11.4.13 *Reporting Requirements for Diluent Gas, Flow Rate, and Moisture Monitoring Systems.* For the certification, recertification, diagnostic, and QA tests of stack gas flow rate, moisture, and diluent gas monitoring systems that are certified and quality-assured according to part 75 of this chapter, report the information in section 10.1.8.2 of this appendix.

* * * * *

11.5.1 The owner or operator of any affected unit shall use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator in an XML format specified by the Administrator, for each affected unit (or group of units monitored at a common stack). If the certified HCl or HF CEMS is used for the initial compliance demonstration, HCl or HF emissions reporting shall begin with the first operating hour of the 30 boiler operating day compliance demonstration period. Otherwise, HCl or HF emissions reporting shall begin with the first operating hour after successfully completing all required certification tests of the CEMS.

* * * * *

■ 11. Add appendix C to subpart UUUUU to read as follows:

Appendix C to Subpart UUUUU of Part 63—PM Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous measurement of filterable particulate matter (PM) emissions from affected EGUs under this subpart. A particulate matter continuous emission monitoring system (PM CEMS) is used together with other continuous monitoring systems and (as applicable) parametric measurement devices to quantify PM emissions in units of the applicable standard (*i.e.*, lb/mmBtu or lb/MWh).

1.2 *Initial Certification and Recertification Procedures.* You, as the owner or operator of an affected EGU that uses a PM CEMS to demonstrate compliance with a filterable PM emissions limit in Table 1 or 2 to this subpart must comply with the initial certification and recertification procedures of Performance Specification 11 (PS 11) in appendix B to part 60 of this chapter.

1.3 *Quality Assurance and Quality Control Requirements.* You must meet the applicable quality assurance requirements of Procedure 2 in appendix F to part 60 of this chapter.

1.4 *Missing Data Procedures.* You must not substitute data for missing data from the PM CEMS. Any process operating hour for which quality-assured PM concentration data are not obtained is counted as an hour of monitoring system downtime.

1.5 *Adjustments for Flow System Bias.* When the PM emission rate is reported on a gross output basis, you must not adjust the data recorded by a stack gas flow rate monitor for bias, which may otherwise be required under § 75.24 of this chapter.

2. Monitoring of PM Emissions

2.1 *Monitoring System Installation Requirements.* Flue gases from the affected EGUs under this subpart vent to the atmosphere through a variety of exhaust configurations including single stacks, common stack configurations, and multiple stack configurations. For each of these configurations, § 63.10010(a) specifies the appropriate location(s) at which to install continuous monitoring systems (CMS). These CMS installation provisions apply to the PM CEMS and to the other continuous monitoring systems and parametric monitoring devices that provide data for the PM emissions calculations in section 6 of this appendix.

2.2 *Primary and Backup Monitoring Systems.* In the electronic monitoring plan described in section 7 of this appendix, you must create and designate a primary monitoring system for PM and for each additional parameter (*i.e.*, stack gas flow rate, CO_2 or O_2 concentration, stack gas moisture content, as applicable). The primary system must be used to report hourly PM concentration values when the system is able to provide quality-assured data, *i.e.*, when the system is "in control." However, to increase data availability in the event of a primary monitoring system outage, you may install, operate, maintain, and calibrate a redundant backup monitoring system. A redundant backup system is one that is permanently installed at the unit or stack location, and is kept on "hot standby" in case the primary monitoring system is unable to provide quality-assured data. You must represent each redundant backup system as a unique monitoring system in the electronic monitoring plan. You must certify each redundant backup monitoring system according to the applicable provisions in section 4 of this appendix. In addition, each redundant monitoring system must meet the applicable on-going QA requirements in section 5 of this appendix.

3. PM Emissions Measurement Methods

The following definitions, equipment specifications, procedures, and performance criteria are applicable

3.1 *Definitions.* All definitions specified in section 3 of PS 11 in appendix B to part 60 of this chapter and section 3 of Procedure 2 in appendix F to part 60 of this chapter are applicable to the measurement of filterable PM emissions from electric utility steam generating units under this subpart.

3.2 *Continuous Monitoring Methods.*

3.2.1 *Installation and Measurement Location.* You must install the PM CEMS according to § 63.10010 and section 2.4 of PS 11.

3.2.2 *Units of Measure.* For the purposes of this subpart, you shall report hourly PM concentrations in the following units of measure:

3.2.2.1 In both milligrams per actual cubic meter (mg/acm) and milligrams per wet standard cubic meter (mg/wscm) If the PM CEMS measures in units of mg/acm; or

3.2.2.2 Milligrams per wet standard cubic meter (mg/wscm), if the PM CEMS measures in mg/wscm; or

3.2.2.3 In both milligrams per dry standard cubic meter (mg/dscm) and milligrams per wet standard cubic meter (mg/wscm), if the PM CEMS measures in units of mg/dscm.

3.2.3 *Other Necessary Data Collection.* To convert hourly PM concentrations to the units of the applicable emissions standard (*i.e.*, lb/mmBtu or lb/MWh), you must collect additional data as described in sections 3.2.3.1 and 3.2.3.2 of this appendix. You must install, certify, operate, maintain, and quality-assure any stack gas flow rate, CO_2, O_2, or moisture monitoring systems needed for this purpose according to sections 4 and 5 of this appendix. The calculation methods for the emission limits described in sections 3.2.3.1 and 3.2.3.2 of this appendix are presented in section 6 of this appendix.

3.2.3.1 *Heat Input-Based Emission Limits.* To demonstrate compliance with a heat input-based PM emission limit in Table 2 to this subpart, you must provide the hourly stack gas CO_2 or O_2 concentration, along with a fuel-specific F_c factor or dry-basis F-factor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to the units of the standard.

3.2.3.2 *Gross Output-Based Emission Limits.* To demonstrate compliance with a gross output-based PM emission limit in Table 1 or Table 2 to this subpart, you must provide the hourly gross output, along with data from a certified stack gas flow rate monitor in order to convert measured PM concentrations values to units of the standard.

4. Certification and Recertification Requirements

4.1 *Certification Requirements.* You must certify your PM CEMS and the other continuous monitoring systems used to determine compliance with the applicable emissions standard before the PM CEMS can be used to provide data under this subpart. Redundant backup monitoring systems (if used) are subject to the same certification requirements as the primary systems.

4.1.1 *PM CEMS.* You must certify your PM CEMS according to PS 11 in appendix B to part 60 of this chapter. PM CEMS that have been installed and certified according to PS 11 as a result of another state or federal regulatory requirement or consent decree prior to the effective date of this subpart shall be considered certified for this subpart if you can demonstrate that your PM CEMS meets the PS 11 acceptance criteria based on the applicable emission standard in this subpart.

4.1.2 *Flow Rate, Diluent Gas, and Moisture Monitoring Systems.* You must certify your continuous monitoring systems that are used to convert PM concentrations to units of the standard (*i.e.*, stack gas flow rate, diluent gas (CO_2 or O_2) concentration, or moisture monitoring systems) in accordance with the applicable provisions in § 75.20 of this chapter and appendix A to part 75 of this chapter.

4.1.3 *Other Parametric Measurement Devices.* If data from temperature or pressure measurement devices are required to convert hourly PM concentrations to standard conditions, you must install, calibrate, maintain, and operate these devices according to the manufacturers' instructions.

4.2 *Recertification.*

4.2.1 You must recertify your PM CEMS if it is either: moved to a different stack or duct; moved to a new location within the same stack or duct; modified or repaired in such a way that the existing correlation is altered or impacted; or replaced.

4.2.2 The flow rate, diluent gas, and moisture monitoring systems that are used to convert PM concentration to units of the emission standard are subject to the recertification provisions in § 75.20(b) of this chapter.

4.3 *Development of a New or Revised Correlation Curve.* You must develop a new or revised correlation curve if:

4.3.1 A response correlation audit (RCA) is failed and the new or revised correlation is developed according to section 10.6 in Procedure 2 of appendix F to part 60 of this chapter; or

4.3.2 The events described in paragraph (1) or (2) in section 8.8 of PS 11 occur while the EGU is operating under normal conditions.

5. Ongoing Quality Assurance (QA) and Data Validation

5.1 *PM CEMS.*

5.1.1 *Required QA Tests.* Following initial certification, you must conduct periodic QA testing of each primary and (if applicable) redundant backup PM CEMS. The required QA tests and the performance specifications that must be met are found in Procedure 2 of appendix F to part 60 of this chapter.

5.1.2 *Out-of-Control Periods.* Your PM CEMS is considered to be out-of-control, and you may not report data from it as quality-assured, when the monitoring system malfunctions or when any acceptance criterion in PS 11 in appendix B to part 60 of this chapter or Procedure 2 in appendix F to part 60 of this chapter for the required QA tests is not met. Your PM CEMS is also considered to be out-of-control when a required QA test is not performed on schedule. When an out-of-control period occurs, you must take corrective actions (if necessary) and perform the appropriate follow-up calibrations and adjustments to bring the monitoring system back in-control. If the out-of-control period is triggered by a required QA test that is failed or not done on time, you must conduct the failed or late test and your PM CEMS must pass the test in order to end the out-of-control period. You must count out-of-control periods of the PM CEMS as hours of monitoring system downtime.

5.1.3 *RCA and RRA Acceptability.* The results of your RRA or RCA are considered acceptable provided that the criteria in section 10.4(5) of Procedure 2 in appendix F to part 60 of this chapter are met for an RCA or section 10.4(6) of Procedure 2 in appendix F to part 60 of this chapter are met for an RRA.

5.2 *Stack Gas Flow Rate, Diluent Gas, and Moisture Monitoring Systems.* The on-going QA test requirements and data validation criteria for the primary and (if applicable) redundant backup stack gas flow rate, diluent gas, and moisture monitoring systems are specified in appendix B to part 75 of this chapter.

5.3 *QA/QC Program Requirements.* You must develop and implement a quality assurance/quality control (QA/QC) program for the PM CEMS and the other equipment that is used to provide data under this subpart. You may store your QA/QC plan electronically, provided that the information can be made available expeditiously in hard copy to auditors and inspectors.

5.3.1 *General Requirements.*

5.3.1.1 *Preventive Maintenance.* You must keep a written record of the procedures needed to maintain the PM CEMS and other equipment that is used to provide data under this subpart in proper operating condition, along with a schedule for those procedures. At a minimum, you must include all procedures specified by the manufacturers of the equipment and, if applicable, additional or alternate procedures developed for the equipment.

5.3.1.2 *Recordkeeping Requirements.* You must keep a written record describing procedures that will be used to implement the recordkeeping and reporting requirements of this appendix.

5.3.1.3 *Maintenance Records.* You must keep a record of all testing, maintenance, or repair activities performed on the PM CEMS, and other equipment used to provide data under this subpart in a location and format suitable for inspection. You may use a maintenance log for this purpose. You must maintain the following records for each system or device: the date, time, and description of any testing, adjustment, repair, replacement, or preventive maintenance action performed, and records of any corrective actions taken. Additionally, you must record any adjustment that may significantly affect the ability of a monitoring system or measurement device to make accurate measurements, and you must keep a written explanation of the procedures used to make the adjustment(s).

5.3.2 *Specific Requirements for the PM CEMS.*

5.3.2.1 *Daily, and Quarterly QA Assessments.* You must keep a written record of the procedures used for daily assessments of the PM CEMS. You must also keep records of the procedures used to perform quarterly ACA and SVA audits. You must document how the test results are calculated and evaluated.

5.3.2.2 *Monitoring System Adjustments.* You must document how each component of the PM CEMS will be adjusted to provide correct responses after routine maintenance, repairs, or corrective actions.

5.3.2.3 *Correlation Tests, Annual and Triennial Audits.* You must keep a written record of procedures used for the correlation tests, at least annual RRAs, and at least triennial RCAs of the PM CEMS. You must document how the test results are calculated and evaluated.

5.3.3 *Specific Requirements for Diluent Gas, Stack Gas Flow Rate, and Moisture Monitoring Systems.* The QA/QC program requirements for the stack gas flow rate, diluent gas, and moisture monitoring systems described in section 3.2.3 of this appendix are specified in section 1 of appendix B to part 75 of this chapter.

5.3.4 *Requirements for Other Monitoring Equipment.* If any other equipment is required to convert readings from the PM CEMS to standard conditions (*e.g.*, devices to measure temperature and pressure), you must keep a written record of the calibrations and/or other procedures used to ensure that the devices provide accurate data.

5.3.5 You may store your QA/QC plan electronically, provided that you can make the information available expeditiously in hard copy to auditors or inspectors.

6. Data Reduction and Calculations

6.1 *Data Reduction and Validation.*

6.1.1 You must reduce the data from PM CEMS to hourly averages, in accordance with § 60.13(h)(2) of this chapter.

6.1.2 You must reduce all CEMS data from stack gas flow rate, CO_2, O_2, and moisture monitoring systems to hourly averages according to § 75.10(d)(1) of this chapter.

6.1.3 You must reduce all other data from devices used to convert readings from the PM CEMS to standard conditions to hourly averages according to § 63.8(g)(2) or § 75.10(d)(1) of this chapter. This includes, but is not limited to, data from devices used to measure temperature and pressure, or, for cogeneration units that calculate gross output based on steam characteristics, devices to measure steam flow rate, steam pressure, and steam temperature.

6.1.4 Do not calculate the PM emission rate for any unit or stack operating hour in which valid data are not obtained for PM concentration or for a parameter used in the emissions calculations (*i.e.*, gross output, stack gas flow rate, stack temperature, stack pressure, stack gas moisture content, or diluent gas concentration, as applicable).

6.1.5 For the purposes of this appendix, part 75 substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content are not considered to be valid data.

6.1.6 Operating hours in which PM concentration is missing or invalid are hours of monitoring system downtime. The use of substitute data for PM concentration is not allowed.

6.1.7 You must exclude all data obtained during a boiler startup or shutdown operating hour (as defined in § 63.10042) from the determination of the 30 boiler operating day rolling average PM emission rates.

6.2 *Calculation of PM Emission Rates.* You must use the calculation methods in sections 6.2.1 through 6.2.3 of this appendix to convert measured PM concentration values to the units of the applicable emission standard.

6.2.1 For each unit or stack operating hour, prior to converting the PM CEMS concentration to units of the emission standard, if your PM CEMS measures the PM concentration in units of mg/acm, you must convert the PM CEMS concentration value to units of mg/wscm, using one of the following equations:

$$C_h = C_a \left(\frac{460 + T_s}{P_s}\right)\left(\frac{P_{std}}{460 + T_{std}}\right) \qquad \text{(Eq. C-1)}$$

Or

$$C_h = C_a \left(\frac{460 + T_{CEMS}}{P_{CEMS}}\right)\left(\frac{P_{std}}{460 + T_{std}}\right) \qquad \text{(Eq.C-2)}$$

Where:

C_h = PM concentration (mg/wscm)
C_a = PM concentration (mg/acm)
T_s = Stack Temperature (°F)
T_{CEMS} = CEMS Measurement Temperature (°F)
P_{CEMS} = CEMS Measurement Pressure (in. Hg)
P_s = Stack Pressure (in. Hg)
T_{std} = Standard Temperature (68 °F)
P_{std} = Standard Pressure (29.92 in. Hg)

(*Note:* The hourly PM concentrations reported in ECMPS must be in units of mg/wscm. If your PM CEMS measures PM concentration in units of mg/m³ on a dry basis at standard conditions, you must apply a correction for the stack gas moisture content to convert it from mg/dscm to mg/wscm. Determine the moisture content according to section 6.2.2.4 of this appendix. To convert the dry basis concentration to wet basis, multiply it by

$$\left(\frac{100 - \%H_2O}{100}\right)$$

).

6.2.2 *Heat Input-Based PM Emission Rates (Existing EGUs, Only).* You must calculate hourly heat input-based PM emission rates, in units of lb/mmBtu, according to sections 6.2.2.1 and 6.2.2.2 of this appendix.

6.2.2.1 You must select an appropriate emission rate equation from among Equations 19–1 through 19–9 in appendix A–7 to part 60 of this chapter to convert the reported hourly PM concentration value to units of lb/mmBtu. Note that the Method 19 equations require the pollutant concentration to be expressed in units of lb/scf; therefore, you must first multiply the PM concentration by 6.24×10^{-8} to convert it from mg/wscm to lb/scf.

6.2.2.2 You must use the appropriate carbon-based or dry-basis F-factor listed in Table 19–2 of Method 19 in the emission rate equation that you have selected. However, if the appropriate F-factor is not in Table 19–2, you may use F-factors from section 3.3.5 or section 3.3.6 of appendix F to part 75 of this chapter.

6.2.2.3 If the hourly average O_2 concentration is above 14.0% O_2 (19.0% for an IGCC) or the hourly average CO_2 concentration is below 5.0% CO_2 (1.0% for an IGCC), you may calculate the PM emission rate using the applicable diluent cap value (as defined in § 63.10042 and specified in § 63.10007(f)(1), provided that the diluent gas monitor is not out-of-control).

6.2.2.4 If your selected Method 19 equation requires a correction for the stack gas moisture content, you may either use quality-assured hourly data from a certified part 75 moisture monitoring system, a fuel-specific default moisture value from § 75.11(b) of this chapter, or a site-specific default moisture value approved by the Administrator under § 75.66 of this chapter.

6.2.2.5 You must calculate the 30-boiler operating day rolling average PM emission rates according to § 63.10021(b).

6.2.3 *Gross Output-Based PM Emission Rates.*

6.2.3.1 For each unit or stack operating hour, you must use the following equation to calculate the gross output-based PM emission rate, in units of lb/MWh.

$$E_{heo} = 6.24 \; x \; 10^{-8} \left(\frac{C_h Q_s}{MW}\right) \qquad \text{(Eq. C-3)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh)
C_h = PM concentration (mg/wscm)
Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis)
MW = Gross output (megawatts)
6.24×10^{-8} = Conversion factor

6.2.3.2 You must calculate the 30-boiler operating day rolling average PM emission rates according to § 63.10021(b).

7. Recordkeeping and Reporting

7.1 *Recordkeeping Provisions.* For the PM CEMS and the other necessary continuous monitoring systems and parameter measurement devices installed at each affected unit or common stack, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with § 63.10033. The file shall contain the applicable information in sections 7.1.1 through 7.1.11 of this appendix.

7.1.1 *Monitoring Plan Records.* For each EGU or group of EGUs monitored at a common stack, you must prepare and maintain a monitoring plan for the PM CEMS and the other CMS(s) needed to convert PM concentrations to units of the applicable emission standard.

7.1.1.1 *Updates.* If you make a replacement, modification, or change in a certified CMS that is used to provide data under this subpart (including a change in the automated data acquisition and handling system) or if you make a change to the flue gas handling system and that replacement, modification, or change affects information reported in the monitoring plan (*e.g.,* a change to a serial number for a component of a monitoring system), you shall update the monitoring plan.

7.1.1.2 *Contents of the Monitoring Plan.* For the PM CEMS, your monitoring plan shall contain the applicable information in sections 7.1.1.2.1 and 7.1.1.2.2 of this appendix. For required stack gas flow rate, diluent gas, and moisture monitoring systems, your monitoring plan shall include the applicable information required for those systems under § 75.53(g) and (h) of this chapter.

7.1.1.2.1 *Electronic.* Your electronic monitoring plan records must include the following information: unit or stack ID number(s); monitoring location(s); the monitoring methodologies used; monitoring system information, including (as applicable): unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate emissions; monitor span and range information, and appropriate default values. Your electronic monitoring plan shall be evaluated and submitted using the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool provided by the Clean Air Markets Division (CAMD) in EPA's Office of Atmospheric Programs.

7.1.1.2.2 *Hard Copy.* You must keep records of the following items: schematics and/or blueprints showing the location of the PM monitoring system(s) and test ports; data flow diagrams; test protocols; and miscellaneous technical justifications.

7.1.2 *Operating Parameter Records.* You must record the following information for each operating hour of each EGU and also for each group of EGUs utilizing a monitored common stack, to the extent that these data are needed to convert PM concentration data to the units of the emission standard. For non-operating hours, you must record only the items in sections 7.1.2.1 and 7.1.2.2 of this appendix. If you elect to or are required to comply with a gross output-based PM standard, for any hour in which there is gross output greater than zero, you must record the items in sections 7.1.2.1 through 7.1.2.3 and (if applicable) 7.1.2.5 of this appendix; however, if there is heat input to the unit(s) but no gross output (*e.g.*, at unit startup), you must record the items in sections 7.1.2.1, 7.1.2.2, and, if applicable, section 7.1.2.5 of this appendix. If you elect to comply with a heat input-based PM standard, you must record only the items in sections 7.1.2.1, 7.1.2.2, 7.1.2.4, and, if applicable, section 7.1.2.5 of this appendix.

7.1.2.1 The date and hour;

7.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at your option);

7.1.2.3 The hourly gross output (rounded to nearest MWe);

7.1.2.4 If applicable, the F_c factor or dry-basis F-factor used to calculate the heat input-based PM emission rate; and

7.1.2.5 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

7.1.3 *PM Concentration Records.* For each affected unit or common stack using a PM CEMS, you must record the following information for each unit or stack operating hour:

7.1.3.1 The date and hour;

7.1.3.2 Monitoring system and component identification codes for the PM CEMS, as provided in the electronic monitoring plan, if your CEMS provides a quality-assured value of PM concentration for the hour;

7.1.3.3 The hourly PM concentration, if a quality-assured value is obtained for the hour.

7.1.3.3.1 For all PM CEMS, record PM concentration in units of mg/wscm.

7.1.3.3.2 If your PM CEMS measures in units of mg/acm, also record the hourly PM concentration in units of mg/acm, and record the temperature and pressure values used in Equation C–1 or C–2 of this appendix to convert from mg/acm to mg/wscm.

7.1.3.3.3 If your PM CEMS measures in units of mg/dscm, also record the hourly PM concentration in units of mg/dscm, and record the moisture value used to convert from mg/dscm to mg/wscm (see section 7.1.6 of this appendix).

7.1.3.4 If applicable, the stack temperature (°F) and stack pressure (in. Hg) used to convert PM concentration from mg/acm to mg/wscm;

7.1.3.5 A special code, indicating whether or not a quality-assured PM concentration is obtained for the hour; and

7.1.3.6 Monitor data availability for PM concentration, as a percentage of unit or stack operating hours calculated according to § 75.32 of this chapter.

7.1.4 Stack Gas Volumetric Flow Rate Records.

7.1.4.1 When a gross output-based PM emissions limit must be met, in units of lb/MWh, you must obtain hourly measurements of stack gas volumetric flow rate during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.4.2 When hourly measurements of stack gas flow rate are needed, you must keep hourly records of the flow rates and related information, as specified in § 75.57(c)(2) of this chapter.

7.1.5 *Records of Diluent Gas (CO_2 or O_2) Concentration.*

7.1.5.1 When a heat input-based PM emission limit must be met, in units of lb/mmBtu, you must obtain hourly measurements of CO_2 or O_2 concentration during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.5.2 When hourly measurements of diluent gas concentration are needed, you must keep hourly CO_2 or O_2 concentration records, as specified in § 75.57(g) of this chapter.

7.1.6 *Records of Stack Gas Moisture Content.*

7.1.6.1 When corrections for stack gas moisture content are needed to demonstrate compliance with the applicable PM emissions limit or to convert dry basis PM concentration measurements to wet basis:

7.1.6.1.1 If you use a continuous moisture monitoring system, you must keep hourly records of the stack gas moisture content and related information, as specified in § 75.57(c)(3) of this chapter.

7.1.6.1.2 If you use a fuel-specific or approved site-specific default moisture value, you must represent it in the electronic monitoring plan required under section 7.1.1.2.1 of this appendix.

7.1.7 *PM Emission Rate Records.* For applicable PM emission limits in units of lb/mmBtu or lb/MWh, you must record the following information for each affected EGU or common stack:

7.1.7.1 The date and hour;

7.1.7.2 The hourly PM emissions rate (lb/mmBtu or lb/MWh, as applicable), calculated according to section 6.2.2 or 6.2.3 of this appendix, rounded to three significant figures, and expressed in scientific notation. You must calculate the PM emission rate only when valid values of PM concentration and all other required parameters required to convert PM concentration to the units of the standard are obtained for the hour;

7.1.7.3 An identification code for the formula used to derive the hourly PM emission rate from measurements of the PM concentration and other necessary parameters (*i.e.*, either the appropriate equation from EPA Method 19, or Equation C–2 in section 6.2.3.1 of this appendix);

7.1.7.4 If applicable, a special code to indicate that the diluent cap has been used to calculate the PM emission rate; and

7.1.7.5 If applicable, a special code to indicate that the default gross output has been used to calculate the hourly PM emission rate.

7.1.7.6 A code indicating that the PM emission rate was not calculated for the hour, if valid data are not obtained for PM concentration and/or any of the other parameters in the PM emission rate equation. For the purposes of this appendix, substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content reported under part 75 of this chapter are not considered to be valid data. However, when the gross output (as defined in § 63.10042) is reported for an operating hour with zero output, the default value is treated as quality-assured data.

7.1.8 *Other Parametric Data.* You must keep records of the parametric data (*e.g.*, PM CEMS measurement temperature and pressure) used to convert the hourly PM concentrations to standard conditions.

7.1.9 *Certification, Recertification, and Quality Assurance Test Records.* For any PM CEMS used to provide data under this subpart, you must record the following certification, recertification, and quality-assurance information:

7.1.9.1 The test dates and times, reference values, monitor responses, monitor full scale value, and calculated results for the required 7-day drift tests and for the required daily zero and upscale calibration drift tests;

7.1.9.2 The test dates and times and results (pass or fail) of all daily system optics checks and daily sample volume checks of the PM CEMS (as applicable);

7.1.9.3 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly ACAs;

7.1.9.4 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly SVAs of extractive PM CEMS;

7.1.9.5 The test dates and times, reference method readings and corresponding PM CEMS responses (including the units of measure), and the calculated results for all PM CEMS correlation tests, RRAs and RCAs. For the correlation tests, you must indicate which model is used (*i.e.*, linear, logarithmic, exponential, polynomial, or power) and record the correlation equation. For the RRAs and RCAs, the reference method readings and PM CEMS responses must be reported in the same units of measure as the PM CEMS correlation (*i.e.*, either in mg/acm, mg/wscm, or mg/dcsm, as applicable);

7.1.9.6 The cycle time and sample delay time for PM CEMS that operate in batch sampling mode; and

7.1.9.7 Supporting information for all required PM CEMS correlation tests, RRAs, and RCAs, including records of all raw reference method and monitoring system data, the results of sample analyses to substantiate the reported test results, as well as records of sampling equipment calibrations, reference monitor calibrations, and analytical equipment calibrations.

7.1.10 For stack gas flow rate, diluent gas, and moisture monitoring systems, you must keep records of all certification, recertification, diagnostic, and on-going quality-assurance tests of these systems, as specified in § 75.59(a) of this chapter.

7.1.11 For any temperature measurement device (*e.g.*, RTD or thermocouple) or pressure measurement device used to convert PM concentrations to standard conditions, you must keep records of all calibrations and other checks performed to ensure that accurate data are obtained.

7.2 *Reporting Requirements.*

7.2.1 *General Reporting Provisions.* You must comply with the following requirements for reporting PM emissions from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

7.2.1.1 Notifications, in accordance with section 7.2.2 of this appendix;

7.2.1.2 Monitoring plan reporting, in accordance with section 7.2.3 of this appendix;

7.2.1.3 Certification, recertification, and QA test submittals, in accordance with section 7.2.4 of this appendix; and

7.2.1.4 Electronic quarterly report submittals, in accordance with section 7.2.5 of this appendix.

7.2.2 *Notifications.* You must provide notifications for each affected unit (or group of units monitored at a common stack) under this subpart in accordance with § 63.10030.

7.2.3 *Monitoring Plan Reporting.* For each affected unit (or group of units monitored at a common stack) under this subpart using PM CEMS to measure PM emissions, you must make electronic and hard copy monitoring plan submittals as follows:

7.2.3.1 You must submit the electronic and hard copy information in section 7.1.1.2 of this appendix pertaining to the PM monitoring system(s) at least 21 days prior to the date on which the Administrator specifies that electronic reporting of PM emissions data via ECMPS is required to begin, or the date on which the initial certification testing of your PM CEMS begins, whichever is later. Also you must submit the monitoring plan information in § 75.53(g) of this chapter pertaining to the required stack gas flow rate, diluent gas, and moisture monitoring system(s) within that same time frame, if those required records are not already in place.

7.2.3.2 Whenever an update of the monitoring plan is required, as provided in section 7.1.1.1 of this appendix, you must submit the updated information either prior to or concurrent with the relevant quarterly electronic emissions report.

7.2.3.3 You must make all electronic monitoring plan submittals and updates to the Administrator using the ECMPS Client Tool. Hard copy portions of the monitoring plan shall be kept on file according to section 7.1 of this appendix.

7.2.4 *Certification, Recertification, and Quality-Assurance Test Reporting.* Except for daily QA tests of the required monitoring systems (*i.e.*, calibration error or drift tests, sample volume checks, system optics checks, and flow monitor interference checks), you must submit the results of all required certification, recertification, and quality-assurance tests described in sections 7.1.9.1 through 7.1.9.7 and 7.1.10 of this appendix electronically (except for test results previously submitted, *e.g.*, under the Acid Rain Program), using the ECMPS Client Tool, either prior to or concurrent with the relevant quarterly electronic emissions report.

7.2.5 *Quarterly Reports.*

7.2.5.1 For each affected EGU (or group of EGUs monitored at a common stack), you must use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

7.2.5.1.1 The first calendar quarter of 2018; or

7.2.5.1.2 The calendar quarter in which the initial PM CEMS correlation test is completed.

7.2.5.2 You must submit the electronic reports within 30 days following the end of each calendar quarter, except for EGUs that have been placed in long-term cold storage (as defined in § 72.2 of this chapter).

7.2.5.3 Each of your electronic quarterly reports shall include the following information:

7.2.5.3.1 The date of report generation;

7.2.5.3.2 Facility identification information;

7.2.5.3.3 The information in sections 7.1.2 through 7.1.7 of this appendix, as applicable to the PM emission measurement methodology used and the units of the PM emission standard with which you have elected to comply; and

7.2.5.3.4 The results of all daily QA assessments, *i.e.*, calibration drift checks and (if applicable) sample volume checks of the PM CEMS, calibration error tests of the other continuous monitoring systems that are used to convert PM concentration to units of the standard, and (if applicable) flow monitor interference checks.

7.2.5.4 *Compliance Certification.* Based on your reasonable inquiry of those persons with primary responsibility for ensuring that all PM emissions from the affected unit(s) under this subpart have been correctly and fully monitored, you must submit a compliance certification in support of each electronic quarterly emissions monitoring report. Your compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

■ 12. Add appendix D to subpart UUUUU to read as follows:

Appendix D to Subpart UUUUU of Part 63—PM CPMS Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous monitoring of the output from a particulate matter continuous parametric monitoring system (PM CPMS), for the purpose of assessing continuous compliance with an applicable emissions limit in Table 1 or Table 2 to this subpart.

1.2 *Summary of the Method.* The output from an instrument capable of continuously measuring PM concentration is continuously recorded, either in milliamps, PM concentration, or other units of measure. An operating limit for the PM CPMS is established initially, based on data recorded by the monitoring system during a performance stack test. The performance test is repeated annually and the operating limit is reassessed. In-between successive performance tests, the output from the PM CPMS serves as an indicator of continuous compliance with the applicable emissions limit.

2. Continuous Monitoring of the PM CPMS Output

2.1 *System Design and Performance Criteria.* The PM CPMS must meet the design and performance criteria specified in §§ 63.10010(h)(1)(i) through (iii) and 63.10023(b)(2)(iii) and (iv). In addition, an automated data acquisition and handling system (DAHS) is required to record the output from the PM CPMS and to generate the quarterly electronic data reports required under section 3.2.4 of this appendix.

2.2 *Installation Requirements.* Install the PM CPMS at an appropriate location in the stack or duct, in accordance with § 63.10010(a).

2.3 *Determination of Operating Limits.*

2.3.1 In accordance with § 63.10007(a)(3), § 63.10011(b), § 63.10023(a), and Table 6 to this subpart, you must determine an initial site-specific operating limit for your PM CPMS, using data recorded by the monitoring system during a performance stack test that demonstrates compliance with one of the following emissions limits in Table 1 or Table 2 to this subpart: filterable PM; total non-Hg HAP metals; total HAP metals including Hg (liquid oil-fired units, only); individual non-Hg HAP metals; or individual HAP metals including Hg (liquid oil-fired units, only).

2.3.2 In accordance with § 63.10005(d)(2)(i), you must perform the initial stack test no later than the applicable date in § 63.9984(f), and according to §§ 63.10005(d)(2)(iii) and 63.10006(a), the performance test must be repeated annually to document compliance with the emissions limit and to reassess the operating limit.

2.3.3 Calculate the operating limits according to § 63.10023(b)(1) for existing units, and § 63.10023(b)(2) for new units.

2.4 *Data Reduction and Compliance Assessment.*

2.4.1 Reduce the output from the PM CPMS to hourly averages, in accordance with § 63.8(g)(2) and (5).

2.4.2 To determine continuous compliance with the operating limit, you must calculate 30-boiler operating day rolling average values of the output from the PM CPMS, in accordance with § 63.10010(h)(3) through (6), § 63.10021(c), and Table 7 to this subpart.

2.4.3 In accordance with § 63.10005(d)(2)(ii), § 63.10022(a)(2), and Table 4 to this subpart, the 30-boiler operating day rolling average PM CPMS output must be maintained at or below the operating limit. However, if exceedances of the operating limit should occur, you must follow the applicable procedures in § 63.10021(c)(1) and (2).

3. Recordkeeping and Reporting

3.1 *Recordkeeping Provisions.* You must keep the applicable records required under § 63.10032(b) and (c) for your PM CPMS. In addition, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with § 63.10033.

3.1.1 *Monitoring Plan Records.*

3.1.1.1 You must develop and maintain a site-specific monitoring plan for your PM CPMS, in accordance with § 63.10000(d).

3.1.1.2 In addition to the site-specific monitoring plan required under § 63.10000(d), you must use the ECMPS Client Tool to prepare and maintain an electronic monitoring plan for your PM CPMS.

3.1.1.2.1 *Contents of the Electronic Monitoring Plan.* The electronic monitoring plan records must include the unit or stack ID number(s), monitoring location(s), the monitoring methodology used (*i.e.,* PM CPMS), the current operating limit of the PM CPMS (including the units of measure), unique system and component ID numbers, the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

3.1.1.2.2 *Electronic Monitoring Plan Updates.* If you replace or make a change to a PM CPMS that is used to provide data under this subpart (including a change in the automated data acquisition and handling system) and the replacement or change affects information reported in the electronic monitoring plan (*e.g.,* changes to the make, model and serial number when a PM CPMS is replaced), you must update the monitoring plan.

3.1.2 *Operating Parameter Records.* You must record the following information for each operating hour of each affected unit and for each group of units utilizing a common stack. For non-operating hours, record only the items in sections 3.1.2.1 and 3.1.2.2 of this appendix.

3.1.2.1 The date and hour;

3.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator); and

3.1.2.3 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

3.1.3 *PM CPMS Output Records.* For each affected unit or common stack using a PM CPMS, you must record the following information for each unit or stack operating hour:

3.1.3.1 The date and hour;

3.1.3.2 Monitoring system and component identification codes for the PM CPMS, as provided in the electronic monitoring plan, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained;

3.1.3.3 The hourly average output from the PM CPMS, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained, either in milliamps, PM concentration, or other units of measure, as applicable;

3.1.3.4 A special code for each operating hour in which the PM CPMS is out-of-control and a valid value of the output parameter is not obtained; and

3.1.3.5 Percent monitor data availability (PMA) for the PM CPMS, calculated according to § 75.32 of this chapter.

3.1.4 *Records of PM CPMS Audits and Out-of-Control Periods.* In accordance with § 63.10010(h)(7), you must record, and make available upon request, the results of PM CPMS performance audits, as well as the dates of PM CPMS out-of-control periods and the corrective actions taken to return the system to normal operation.

3.2 *Reporting Requirements.*

3.2.1 *General Reporting Provisions.* You must comply with the following requirements for reporting PM CPMS data from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

3.2.1.1 Notifications, in accordance with section 3.2.2 of this appendix;

3.2.1.2 Monitoring plan reporting, in accordance with section 3.2.3 of this appendix;

3.2.1.3 Report submittals, in accordance with sections 3.2.4 and 3.2.5 of this appendix.

3.2.2 *Notifications.* You must provide notifications for the affected unit (or group of units monitored at a common stack) in accordance with § 63.10030.

3.2.3 *Monitoring Plan Reporting.* For each affected unit (or group of units monitored at a common stack) under this subpart using a PM CPMS you must make monitoring plan submittals as follows:

3.2.3.1 Submit the electronic monitoring plan information in section 3.1.1.2.1 of this appendix at least 21 days prior to the date on which the Administrator specifies that electronic reporting of hourly PM CPMS data via ECMPS is required to begin.

3.2.3.2 Whenever an update of the electronic monitoring plan is required, as provided in section 3.1.1.2.2 of this appendix, the updated information must be submitted either prior to or concurrent with the relevant quarterly electronic emissions report.

3.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool.

3.2.3.4 In accordance with § 63.10000(d), you must submit the site-specific monitoring plan described in section 3.1.1.1 of this appendix to the Administrator, if requested.

3.2.4 *Electronic Quarterly Reports.*

3.2.4.1 For each affected EGU (or group of EGUs monitored at a common stack) that is subject to the provisions of this appendix, reporting of hourly responses from the PM CPMS will begin either with the first operating hour in the first quarter of 2018 or the first operating hour after completion of the initial stack test that establishes the operating limit, whichever is later. You must then use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

3.2.4.1.1 The first calendar quarter of 2018; or

3.2.4.1.2 The calendar quarter in which the initial compliance demonstration begins.

3.2.4.2 The electronic quarterly reports must be submitted within 30 days following the end of each calendar quarter, except for units that have been placed in long-term cold storage (as defined in § 72.2 of this chapter).

3.2.4.3 Each electronic quarterly report shall include the following information:

3.2.4.3.1 The date of report generation;

3.2.4.3.2 Facility identification information; and

3.2.4.3.3 The information in sections 3.1.2 and 3.1.3 of this appendix.

3.2.4.4 *Compliance Certification.* Based on reasonable inquiry of those persons with primary responsibility for ensuring that the output from the PM CPMS has been correctly and fully monitored, the owner or operator shall submit a compliance certification in support of each electronic quarterly report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

3.2.5 *Performance Stack Test Results.* You must use the ECMPS Client Tool to report the results of all performance stack tests conducted to document compliance with the applicable emissions limit in Table 1 or Table 2 to this subpart, as follows:

3.2.5.1 Report a summary of each test electronically, in XML format, in the relevant quarterly compliance report under § 63.10031(g); and

3.2.5.2 Provide a complete stack test report in PDF format, in accordance with § 63.10031(f) or (h), as applicable.

■ 13. Add appendix E to subpart UUUUU to read as follows:

Appendix E to Subpart UUUUU to Part 63—Data Elements

1.0 You must record the electronic data elements in this appendix that apply to your compliance strategy under this subpart. The applicable data elements in sections 2 through 13 of this appendix must be reported in the quarterly compliance reports required under § 63.10031(g), in an XML format prescribed by the Administrator. For performance stack tests, RATAs, PM CEMS correlations, RRAs and RCAs, the applicable data elements in sections 17 through 21 of this appendix must be reported in an XML format prescribed by the Administrator, and the information in section 22 of this appendix must be reported in PDF format.

2.0 *MATS Compliance Report Root Data Elements.* You must record the following data elements and include them in each quarterly compliance report:

2.1 ORIS Code;

2.2 Facility Registry Identifier;

2.3 Title 40 part;

2.4 Applicable subpart;

2.5 Calendar Year;

2.6 Calendar Quarter; and

2.7 Compliance Indicator.

3.0 *Performance Stack Test Summary.* If you elect to demonstrate compliance using periodic performance stack testing (including

30-boiler operating day Hg LEE tests), record the following data elements for each test:

3.1 Parameter;
3.2 Test Location ID;
3.3 Test Number;
3.4 Test Begin Date, Hour, and Minute;
3.5 Test End Date, Hour, and Minute;
3.6 Timing of Test;
3.7 Averaging Plan Indicator;
3.8 Averaging Group ID (if applicable);
3.9 Test Method Code;
3.10 Emission Limit, Including Units of Measure;
3.11 Average Pollutant Emission Rate;
3.12 LEE Indicator; and
3.13 LEE Basis (if applicable).

4.0 Operating Limit Data (PM CPMS, Only)

4.1 Parameter Type;
4.2 Operating Limit; and
4.3 Units of Measure.

5.0 *Performance Test Run Data.* For each run of the performance stack test, record the following data elements:

5.1 Run Number;
5.2 Run Begin Date, Hour, and Minute;
5.3 Run End Date, Hour, and Minute;
5.4 Pollutant Concentration and units of measure;
5.5 Emission Rate;
5.6 Total Sampling Time; and
5.7 Total Sample Volume.

6.0 *Conversion Parameters.* For the parameters that are used to convert the pollutant concentration to units of the emission standard (including, as applicable, CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, F-factors, and gross output), record:

6.1 Parameter Type;
6.2 Parameter Source; and
6.3 Parameter Value, including Units of Measure.

7.0 *QA Parameters:* For key parameters that are used to quality-assure the reference method data (including, as applicable, filter temperature, % isokinetic, leak check results, % breakthrough, % spike recovery, and relative deviation), record:

7.1 Parameter Type;
7.2 Parameter Value; and
7.3 Pass/Fail Status.

8.0 *Averaging Group Configuration.* If a particular EGU or common stack is included in an averaging plan, record the following data elements:

8.1 Parameter Being Averaged;
8.2 Averaging Group ID; and
8.3 Unit or Common Stack ID.

9.0 *Compliance Averages.* If you elect to (or are required to) demonstrate compliance using continuous monitoring system(s) on a 30-boiler operating day rolling average basis (or on a 30- or 90-group boiler operating day rolling weighted average emission rate (WAER) basis, if your monitored EGU or common stack is in an averaging plan), you must record the following data elements for each average emission rate (or, for units in an averaging plan, for each weighted average emission rate (WAER)):

9.1 Unit or Common Stack ID;
9.2 Averaging Group ID (if applicable);
9.3 Parameter Being Averaged;
9.4 Date;
9.5 Average Type;
9.6 Units of Measure; and
9.7 Average Value.

10.0 *Unit Information.* You must record the following data elements for each EGU:

10.1 Unit ID;
10.2 Unit Type;
10.3 Date of Last Tune-up;
10.4 Date of Last Burner Inspection;
10.5 Each Type of Fuel Used During Each Calendar Month;
10.5.1 Fuel Usage Begin Date;
10.5.2 Fuel Usage End Date;
10.5.3 Quantity of Fuel Consumed;
10.5.4 Units of Measure;
10.5.5 New Fuel Type Indicator;
10.5.6 Date of Performance Test Using the New Fuel (if applicable); and
10.5.7 Non-Waste Fuel Type (if applicable).

11.0 *Malfunction Information (if applicable):* If there was a malfunction of the process equipment or control equipment during the reporting period, record:

11.1 Event Begin Date and Hour;
11.2 Event End Date and Hour;
11.3 Malfunction Description; and
11.4 Corrective Action Description.

12.0 *Deviations:* If there were any deviations during the reporting period, record:

12.1 The nature of the deviation, *i.e.:*
12.1.1 Emission limit exceeded;
12.1.2 Operating limit exceeded;
12.1.3 Work practice standard not met;
12.1.4 Testing requirement not met; or
12.1.5 Monitoring requirement not met;
12.2 A description of the deviation, including the date (or range of dates), the cause (if known), and any corrective actions taken. For monitor downtime incidents, report the percent monitor data availability (PMA) at the end of the quarter and the lowest hourly PMA value recorded during the quarter.

13.0 *Emergency Bypass Information.* If your coal-fired EGU, solid oil-derived fuel-fired EGU, or IGCC is equipped with a main stack and a bypass stack (or bypass duct) configuration, and has qualified to use the LEE compliance option, you must report the following emergency bypass information annually, in the compliance report for the fourth calendar quarter of the year:

13.1 The total number of emergency bypass hours for the calendar year, expressed as a percentage of the EGU's annual operating hours;
13.2 A description of each emergency bypass event during the year, including the cause and corrective actions taken; and
13.3 Estimates of the emissions released during the emergency bypass events.

14.0 *Reference Method Data Elements.* For each of the following tests that is completed on and after January 1, 2018, you must record and report the applicable electronic data elements in sections 17 through 21 of this appendix, pertaining to the reference method(s) used for the test (see section 16 of this appendix).

14.1 Each quarterly, annual, or triennial performance stack test (including 30-boiler operating day Hg LEE tests);
14.2 Each relative accuracy test audit (RATA) of your Hg, HCl, HF, or SO_2 CEMS or each RATA of your Hg sorbent trap monitoring system; and
14.3 Each correlation test, relative response audit (RRA) and each response correlation audit (RCA) of your PM CEMS.

15.0 You must report the applicable data elements for each test described in section 14 of this appendix in an XML format prescribed by the Administrator.

15.1 For each performance stack test completed during a particular calendar quarter and contained in the quarterly compliance report, you must submit along with the quarterly compliance report, the data elements in section 17 of this appendix (which are common to all tests) and the data elements in sections 18 through 21 of this appendix that are associated with the reference method(s) used.

15.2 For each RATA, PM CEMS correlation, RRA, or RCA, when you use the ECMPS Client Tool to report the test results as required under appendix A, B, or C to this subpart or, for SO_2 RATAs under part 75 of this chapter, you must submit along with the test results, the data elements in section 17 of this appendix and, for each test run, the data elements in sections 18 through 21 of this appendix that are associated with the reference method(s) used.

15.3 For each performance stack test, RATA, PM CEMS correlation, RRA, and RCA, you must also provide the information described in section 22 of this appendix in PDF format, either along with the quarterly compliance report (for performance stack tests) or together with the test results reported under appendix A, B, or C to this subpart or part 75 of this chapter (for RATAs, RRAs, RCAs, or PM CEMS correlations).

16.0 *Applicable Reference Methods.* One or more of the following EPA reference methods is needed for the tests described in sections 14.1 through 14.3 of this appendix: Method 1, Method 2, Method 3A, Method 4, Method 5, Method 5D, Method 6C, Method 26, Method 26A, Method 29, and/or Method 30B.

16.1 *Application of Methods 1 and 2.* If you use periodic stack testing to comply with an *output-based* emissions limit, you must determine the stack gas flow rate during each performance test run in which Reference Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. For Methods 5, 5D, 26A and 29, which require isokinetic sampling, the delta-P readings made with the pitot tube and manometer at the Method 1 traverse points, taken together with measurements of stack gas temperature, pressure, diluent gas concentration and moisture, provide the necessary data for the Method 2 flow rate calculations. Note that even if you elect to comply with a *heat input-based* standard, when Method 5, 5D, 26A, or 29 is used, you must still use Method 2 to determine the average stack gas velocity (v_s), which is needed for the percent isokinetic calculation. Methods 26 and 30B do not require isokinetic sampling; therefore, when either of these methods is used, if the stack gas flow rate is needed to comply with the applicable *output-based* emissions limit, you must make a separate Method 2 determination during each test run.

16.2 *Application of Method 3A.* If you elect to perform periodic stack testing to comply with a *heat input-based* emissions limit, measurement of the diluent gas (CO_2 or O_2) concentration is required for each test run in which Method 5, 5D, 26, 26A, 29, or 30B is used, in order to convert the measured pollutant concentration to units of the standard. Method 3A is the preferred CO_2 or O_2 test method, although Method 3B may be used instead. Diluent gas measurements are also needed for stack gas molecular weight determinations when using Method 2.

16.3 *Application of Method 4.* For performance stack tests, depending on which equation is used to convert pollutant concentration to units of the standard, measurement of the stack gas moisture content, using Method 4, may also be required for each test run. Method 4 moisture data are also needed for Method 2 calculations (to convert the measured flow rate from wet basis to dry basis) and for the RATA of an Hg CEMS that measures on a wet basis, when RM 30B is used. Other applications that may require Method 4 moisture determinations include RATAs of an SO_2 monitor (depending on the moisture basis (wet or dry) of the reference method and CEMS), and conversion of wet-basis pollutant concentrations to the units of a *heat input-based* emissions limit when certain Method 19 equations are used (*e.g.*, Eq. 19–3, 19–4, or 19.8). When Reference Method 5, 5D, 26A, or 29 is used for the performance test, the Method 4 moisture determination may be made by using the water collected in the impingers together with data from the dry gas meter; alternatively, a separate Method 4 determination may be made. However, when Method 26 or 30B is used, Method 4 must be performed separately.

16.4 *Applications of Methods 5 and 5D.* Method 5 (or, if applicable 5D) must be used for the following applications: To demonstrate compliance with a filterable PM emissions limit or for the initial correlations, RRAs and RCAs of a PM CEMS.

16.5 *Applications of Method 6C.* If you elect to monitor SO_2 emissions from your coal-fired EGU as a surrogate for HCl, the SO_2 CEMS must be installed, certified, operated, and maintained according to 40 CFR part 75. Part 75 allows the use of Reference Methods 6, 6A, 6B, and 6C for the required RATAs of the SO_2 monitor. However, in practice, only the instrumental method (6C) is used.

16.6 *Applications of Methods 26 and 26A.* Method 26A may be used for quarterly HCl or HF stack testing, or for the RATA of an HCl or HF CEMS. Method 26 may be used for quarterly HCl or HF stack testing; however, for the RATAs of an HCl monitor that is following Performance Specification 18 and Procedure 6 in appendices B and F to part 60 of this chapter, Method 26 may only be used if approved upon request.

16.7 *Applications of Method 29.* Method 29 may be used for periodic performance stack tests to determine compliance with individual or total HAP metals emissions limits. For coal-fired EGUs, the total HAP emissions limits exclude Hg.

16.8 *Applications of Method 30B.* Method 30B is used for 30-boiler operating day Hg LEE tests and RATAs of Hg CEMS and sorbent trap monitoring systems, and may be used for quarterly Hg stack testing (oil-fired EGUs, only).

17.0 *Data Elements Common to All Tests.* You must report the following data elements for each performance stack test, RATA, CEMS correlation, RRA, and RCA:

17.1 Facility Name;
17.2 Facility Address;
17.3 Facility City;
17.4 Facility County;
17.5 Facility State;
17.6 Facility Zip Code;
17.7 Facility Point of Contact;
17.8 Facility Contact Phone Number;
17.9 Facility Contact email;
17.10 EPA Facility Registration System Number (FRS);
17.11 Name of Test Company;
17.12 Test Company Address;
17.13 Test Company City;
17.14 Test Company State;
17.15 Test Company Zip Code;
17.16 Test Company Point of Contact;
17.17 Test Company Contact Phone Number;
17.18 Test Company Contact email;
17.19 State Facility ID;
17.20 Sampling Location;
17.21 *Test Number.* For performance stack tests, this number must exactly match the test number assigned to the summarized test results in the relevant quarterly compliance report. For RATAs of Hg, HCl, HF, and SO_2 monitoring systems, PM CEMS correlations, RRAs and RCAs, this number must exactly match the test number assigned to the summarized electronic test results that are reported under appendix A, B, or C to this subpart or part 75 of this chapter (as applicable);
17.22 Test Method;
17.23 Process Parameter;
17.24 Duct Diameter (circular stack);
17.25 Equivalent Diameter of rectangular duct;
17.26 Area of Stack;
17.27 Number of Traverse Points;
17.28 Control Device Description;
17.29 Pollutant name;
17.30 Action on Process Material (*e.g.*, burned);
17.31 Subpart;
17.32 SCC Code;
17.33 Project Number;
17.34 Emission Concentrations;
17.35 Percent O_2/CO_2 Correction;
17.36 Units of Process Parameter;
17.37 Quantity of Fuel;
17.38 Type of Fuel; and
17.39 BLD, DLL Flag for Detection Limit.

18.0 *Data Elements for Methods 1–4.* When Methods 1–4 are used, you must report the following data elements for each test run, specific to the method(s) used:

18.1 Run Number;
18.2 Run Date;
18.3 Clock Time Start;
18.4 Clock Time End;
18.5 Traverse Point;
18.6 Barometric Pressure;
18.7 Static Pressure;
18.8 Pitot Calibration;
18.9 % O_2;
18.10 % CO_2;
18.11 Pressure Reading at Each Traverse Point (ΔP);
18.12 Stack Temperature at Each Traverse Point;
18.13 Dry Basis F-Factor (F_d);
18.14 Wet Basis F-Factor (F_w);
18.15 Percent Moisture—Actual;
18.16 Dry Molecular Weight of Stack Gas;
18.17 Wet Molecular Weight of Stack Gas;
18.18 Stack Gas Velocity—fps;
18.19 Volumetric Flow Rate—scfm;
18.20 Pitot Tube ID;
18.21 Manometer Used;
18.22 Run Elapsed Time at Start (= 0);
18.23 Cumulative Elapsed Sampling Time;
18.24 Orifice Pressure—Actual;
18.25 Calibration Coefficient of Dry Gas Meter;
18.26 Dry Gas Meter Inlet Temperature at Each Traverse Point; and
18.27 Dry Gas Meter Outlet Temperature at Each Traverse Point.

19.0 *Data Elements for Methods 5, 5D, 26, 26A, and 29.* When Method 5 (or, if applicable, 5D), Method 26, Method 26A, or Method 29 is used, you must report the following data elements for each test run:

19.1 Pollutant (analyte);
19.2 Run Number;
19.3 Run Date;
19.4 Method;
19.5 Run Start Time;
19.6 Run End Time;
19.7 Area of Stack;
19.8 Process Parameter Run Data;
19.9 Barometric Pressure;
19.10 Static Pressure;
19.11 Pitot Calibration;
19.12 Volume or Weight of Moisture Collected;
19.13 % O_2;
19.14 % CO_2;
19.15 Pressure Reading at Each Traverse Point (ΔP);
19.16 Stack Temperature at Each Traverse Point;
19.17 Pump Vacuum;
19.18 Process Run ID;
19.19 Process Run Parameter ID;
19.20 Orifice Pressure (Actual) at Each Traverse Point;
19.21 Calibration Coefficient of Dry Gas Meter;
19.22 Nozzle Calibration;
19.23 Initial Volume of Dry Gas Meter;
19.24 Final Volume of Dry Gas Meter;
19.25 Dry Gas Meter Inlet Temperature at Each Traverse Point;
19.26 Dry Gas Meter Outlet Temperature at Each Traverse Point;
19.27 Probe Temperature;
19.28 Filter/Oven Temperature;
19.29 Filter/Oven Exhaust Temperature;
19.30 Mass Collected—For Method 29, Report Both Front Half and Back Half. For Methods 26 and 26A, Report Total Mass of HCl in Sample; and
19.31 Units of Measurement—Mass.

20.0 *Data Elements for Methods 6C and 3A.* When Method 6C or 3A is used, you must report the following data elements for each test run:

20.1 Sampling Location;
20.2 Pollutant (analyte);
20.3 Run Number;
20.4 Run Date;
20.5 Method;
20.6 Run Start Time;
20.7 Run End Time;

20.8 Cylinder ID;
20.9 Gas Level (Zero, Low, Mid, High);
20.10 Date of Expiration;
20.11 Compound (Analyte);
20.12 Cylinder Gas Units of Measure;
20.13 % O_2,
20.14 % CO_2;
20.15 Calculated Average Wet Emission Concentration (C_{gasw});
20.16 Process Parameter Run Data;
20.17 Flow Rate (scfm);
20.18 Clock Time;
20.19 Units (ppm, %, etc.);
20.20 Calibration Span Concentration;
20.21 Calibration Zero-level Concentration;
20.22 Calibration Low-level Concentration;
20.23 Calibration Mid-level Concentration;
20.24 Calibration High-level Concentration;
20.25 Zero Gas Response;
20.26 Low Gas Response;
20.27 Mid Gas Response;
20.28 High Gas Response;
20.29 Span Zero Response;
20.30 Span High Response;
20.31 Pre-test Zero Response;
20.32 Pre-test Bias Response;
20.33 Post Zero Response;
20.34 Post Span Bias Response;
20.35 Raw Measured Concentration (C_{avg});
20.36 Raw Measurement Units;
20.37 Zero Gas Percent Error;
20.38 Low Gas Percent Error;
20.39 Mid Gas Percent Error;
20.40 High Gas Percent Error;
20.41 System Zero Level Calibration Error;
20.42 System High Level Calibration Error;
20.43 Pre-run Zero Bias;
20.44 Pre-run Zero Drift;
20.45 Pre-run High Level Bias, Percent;
20.46 Pre-run High Level Drift;
20.47 Post-run Zero Bias;
20.48 Post-run Zero Drift;
20.49 Post-run High Level Bias;
20.50 Post-run High Level drift;
20.51 Calculated Average Dry Emissions Concentration (C_{gas});
20.52 Measurement Units of C_{gas} (Dry); and
20.53 Measurement Units of C_{gas} (Wet).

21.0 *Data Elements for Method 30B.* When Method 30B is used, you must report the following data elements for each test run:

21.1 Sampling Location;
21.2 Pollutant (analyte);
21.3 Run Number;
21.4 Run Date;
21.5 Method;
21.6 Run Start Time;
21.7 Run End Time;
21.8 Process Parameter Run Data;
21.9 Area of Stack;
21.10 Barometric Pressure;
21.11 Static Pressure;
21.12 %O_2;
21.13 %CO_2;
21.14 Stack Gas Volumetric Flow Rate (dry, standard conditions);
21.15 Stack Gas Temperature;
21.16 Associated Process Run Rate;
21.17 Start Minutes (cumulative);
21.18 End Minutes (cumulative);
21.19 Actual Clock Time;
21.20 Meter Box A or B Correction Factor (Y);
21.21 Pre Leak Check Vacuum (in. Hg);
21.22 Post Leak Check Vacuum (in. Hg);
21.23 Pre Leak Rate;
21.24 Post Leak Rate;
21.25 Gas Sample Volume Units of Measure;
21.26 Hg Mass Units of Measure;
21.27 Dry Gas Meter Reading at Beginning of Sampling, Sampling Train A or B;
21.28 Dry Gas Meter Reading at End of Sampling, Sampling Train A or B;
21.29 Dry Gas Meter Temperature (Train A or B);
21.30 Sampling Rate (Train A or B);
21.31 Pump Vacuum;
21.32 Sorbent Trap ID;
21.33 Mass of Spike on Field Recovery Traps;
21.34 Mass Collected on Section 1 (A or B); and
21.35 Mass Collected on Section 2 (A or B).

22.0 *Other Information for Each Test.* For each test, you must submit the following information in PDF format as a supplement to the XML reports required by this appendix: All information pertaining to the test that is ordinarily included in a comprehensive test report, but is incompatible with electronic reporting format, including, but not limited to diagrams showing the location of the test site and the sampling points, laboratory calibrations of source sampling equipment, calibration gas cylinder certificates, and stack testers' credentials. The applicable data elements in § 63.10031(f)(6)(i) through (xii) must be entered into ECMPS with each submittal; the test number (see § 63.10031(f)(6)(xi)) must be included and it must match the test number in section 17.21 of this appendix.

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Part III

The President

Proclamation 9503—National Voter Registration Day, 2016

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9503 of September 26, 2016

National Voter Registration Day, 2016

By the President of the United States of America

A Proclamation

One of the most fundamental and sacred rights of any democracy is the right to vote; in order for our government to function effectively and respond to the needs of our people, all citizens can and must play a role in shaping it. Each year on National Voter Registration Day, we reaffirm the strong sense of civic pride among our people and encourage friends, family members, and neighbors to get involved in civic life by registering to vote.

Democracy is not a spectator sport. If we are serious about improving our country and ensuring our government reflects our values, we cannot afford to sit out on Election Day. Unfortunately, among those who are eligible to vote, too many choose not to—far too many people disenfranchise themselves by not getting involved. When we do not take full advantage of the right to vote, we not only give away our voice; our power; our ability to shape the future of the country we love—we also do a disservice to the generations of Americans before us who risked everything, including their lives, to protect this fundamental aspect of our Republic.

Our brand of democracy is hard, and it requires our citizens to be able to fully participate in a smooth and effective way. Through a bipartisan, independent commission dedicated to improving the voting process, we are working to ensure our democracy and our elections function the way they are supposed to. Whether through strengthening mechanisms that allow more people to vote—such as online registration—or going door-to-door to register voters in our communities, we must make registering to vote easier. By protecting and expanding this right, we can ensure this grand experiment in self-government works for more Americans. For more information on how to register to vote, visit www.VOTE.USA.gov.

It is easy to feel frustrated when the pace of change is slow—and to lose hope in the political process as a result. But we cannot give in to that cynicism. Heroic things happen when people get involved. Our government is only as strong as what we put into it, and it is only reflective of the will of our citizenry when we exercise our right to vote. Today, as we once again celebrate National Voter Registration Day, let us carry forward the tradition of promoting voter registration and civic engagement, recommit to exercising one of the most precious of our democratic rights, and remember that the task of perfecting our Union belongs to us all.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 27, 2016, as National Voter Registration Day. I call upon all Americans to observe this day by ensuring they are registered to vote.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

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* **Editorial Note:** Proclamation number 9494 will not be used because a proclamation numbered 9494 appeared on the Public Inspection List on Friday September 16, 2016, but was withdrawn by the issuing agency before publication in the **Federal Register**.

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